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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

CENTRAL VALLEY AUDITORIUM

SACRAMENTO, CALIFORNIA

TUESDAY, AUGUST 12, 2003

9:30 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Linda Moulton-Patterson, Chairperson

Jose Medina, Vice Chairperson

Steven R. Jones

Michael Paparian

Cheryl Peace

Carl Washington

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Elliot Block, Acting Chief Counsel

Jim Lee, Deputy Director

Howard Levenson, Deputy Director

Pat Schiavo, Deputy Director

Patty Wohl, Deputy Director

Debbie Balluch

Don Dier

Blanch Harbridge-Wright

Jan Howard

Jim LaTanner

Mike Leason

See Chuan Lee

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APPEARANCES CONTINUED

STAFF

Deborah McKee

Bill Orr

John Smith

Sharon Waddell

Brad Williams

ALSO PRESENT

Sue Field, Superintendent Bennett Valley School District

Steve Lautze, California Association of RMDZs

Rick Lymp, Right 2 Know

Randy Pollack, Livingston & Mattesich

Scott Smithline, Californians Against Waste

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Good morning.

3 And welcome to the August meeting of the California
4 Integrated Waste Management Board.

5 Would the secretary please call the roll.

6 SECRETARY WADDELL: Jones?

7 BOARD MEMBER JONES: Here.

8 SECRETARY WADDELL: Medina?

9 VICE CHAIRPERSON MEDINA: Here.

10 SECRETARY WADDELL: Paparian?

11 BOARD MEMBER PAPARIAN: Here.

12 SECRETARY WADDELL: Peace?

13 BOARD MEMBER PEACE: Here.

14 SECRETARY WADDELL: Moulton-Patterson?

15 CHAIRPERSON MOULTON-PATTERSON: Here.

16 Would you join me in the Pledge of Allegiance
17 this morning.

18 (Thereupon the Pledge of Allegiance was
19 Recited in unison.)

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 I'd like to ask you to please turn off your cell
22 phones and pagers.

23 There's a limited number of agendas in the back.

24 And there's also speaker slips. If you'd like to
25 speak on an item, please indicate the item number, fill

1 out a speaker slip, and give it to Ms. Waddell, who's
2 right over here. And we'll be glad to hear from you.

3 I think this morning I'll start with ex partes.

4 I'm up to date with the exception of one that I
5 wanted to ex parte for all the Board members. We've
6 gotten it to your office, but I don't know at what time
7 you received it. So I'll just go ahead.

8 We got one from Assembly Member Hannah-Beth
9 Jackson. And she was urging our support on the Solid
10 Waste Facilities Permit for MarBorg C&D Recycling and
11 Transfer Facilities. And I think the Committee took this
12 up. And so I'd like to ex parte this on behalf of all the
13 Board members.

14 And with that I'll go to Mr. Jones for ex partes.

15 BOARD MEMBER JONES: Thanks, Madam Chair.

16 Just John Cupps and Mark Aprea.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 Ms. Peace.

19 BOARD MEMBER PEACE: I'm up to date.

20 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina.

21 VICE CHAIRPERSON MEDINA: Up to date.

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

23 BOARD MEMBER PAPARIAN: I'm up to date.

24 CHAIRPERSON MOULTON-PATTERSON: Okay. Before we
25 get started, Mr. Jones, did you have anything you'd like

1 to report?

2 Just general --

3 BOARD MEMBER JONES: No. That's fine.

4 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace?

5 BOARD MEMBER PEACE: Yes, a couple things.

6 Two weeks ago I went on an LEA ride-along, and I
7 toured a burn dump site called the Gunpowder Point site in
8 Chula Vista. And I also observed an inspection at the
9 Otay Landfill.

10 What struck me most was the large amount of very
11 reusable items that were being dumped by self-haulers,
12 everything from bicycles and furniture and bags of
13 clothes. And I thought, "Boy, what a shame that all this
14 stuff is going to the dump." And I was told that these
15 things could not be pulled out off the dump site because
16 of liability concerns.

17 Now, I'm certain there's a way around this
18 problem. And I've been told that Urban One in San
19 Francisco deals with it. And that's, I guess, a program I
20 would like to see, you know, encouraged in other parts of
21 the state.

22 Also, I spoke to a group of education grant
23 recipients at the Board-sponsored conference for teachers
24 and administrators involved in our Environmental
25 Ambassador Program. I found that group to be very

1 inspirational because they were so passionate about true
2 learning, and that they -- they were at this conference to
3 learn and share ideas on how learning and protecting
4 our -- teaching our children to protect our environment
5 and care for our environment and how those two things go
6 hand in hand.

7 CHAIRPERSON MOULTON-PATTERSON: Thanks, Ms.
8 Peace.

9 Mr. Medina.

10 VICE CHAIRPERSON MEDINA: I have nothing to
11 report at this time.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you.
13 Mr. Paparian.

14 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.
15 A couple things.

16 I attended the CRRA conference down in Ontario a
17 few weeks ago. And it was a very interesting, a very
18 exciting conference. They certainly missed the normal
19 contingent of Board staff who attend -- typically attend
20 the CRRA conferences. And, obviously, with the budget
21 constraints and so forth, we weren't able to participate
22 in the same level as we had previously.

23 I see Calvin there. Calvin was able to
24 participate in a very good workshop on plastics-related
25 issues.

1 I spoke about producer responsibility and the
2 future of recycling in California. And we actually had a
3 pretty interesting and lively discussion of some of the
4 actually interesting statutes that are out there that
5 either allow us or require us to do certain things in the
6 area of recycling that I'm hopeful we'll be able to do
7 more of in the future. And I'll be going over some of
8 these things at some of the future Board meetings.

9 I thought I might also mention -- you know, we've
10 got the tire conference just around the corner. I know
11 Mr. Medina will probably be talking about it in his
12 Special Waste Committee report. But there are some very
13 promising issues in the tire area that I thought I'd bring
14 up.

15 First of all, I'd like to, you know, thank the
16 tire staff for their hard work on improving the report on
17 the recycled content in new tires. It wasn't quite ready
18 for release. And I wanted to also thank Vice Chair Medina
19 for being willing to send the report back for a bit more
20 polishing.

21 But in this recycled content in tires area
22 there's some very exciting developments. Last year -- in
23 fact a year ago August, the tire manufacturers came to the
24 Waste Board and told us that they were using up to 10
25 percent recycled content in their tires. And two of the

1 manufactures indicated they'd be willing to tell us which
2 tires have recycled content.

3 In the last couple months, the tire staff --
4 they've provided me some information indicating that one
5 of the manufacturers actually is seeing some very positive
6 results at 13 percent recycled content. And that same
7 manufacturer expressed their belief that it would be quite
8 possible that it would be feasible to go up to as high as
9 25 percent recycled content in new tires.

10 As you know, I've been working on electronics
11 waste issues with U.S. EPA. And based on some of my
12 connections and conversations with U.S. EPA, I learned
13 that they are working with a number of states on tire
14 related issues as they impact the environment. They have
15 a multi-state effort that's just getting started regarding
16 tires in the environment. In fact, there's a conference
17 call on Thursday morning that they're sponsoring with
18 state representatives. And my staff is going to be
19 participating in that call, along with I believe Mr.
20 Medina's staff. And I'll be reviewing this effort. I
21 think Peggy's going to let the tire staff know about the
22 call and whether they want to participate. And I'll be
23 going over some of this with Jim when we get together
24 later this week.

25 On a non-tire issue, we've been working hard on

1 the electronics waste legislation, SB 20, by Senator Sher,
2 along with Waste Board staff and Patty Zwarts at Cal EPA,
3 as well as some of the industry and environmental
4 stakeholders. I know the legislative offices at the Waste
5 Board has a lot of competing priorities this time of year.

6 And I'd like to especially thank Carroll Mortensen
7 and Elizabeth MacMillan for all the time they've been able
8 to put in to this electronic waste issue, helping craft
9 language for the bill, craft comments about the bill, and
10 really pull together the information that's necessary for
11 our involvement in the legislative process on the bill.

12 I still remain very hopeful that we'll have an
13 agreement this legislative session and that something will
14 be sent to the Governor that meets the requirements that
15 he laid out in his veto message of the electronics waste
16 legislation last year.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you. And
18 thank you for all your work on that, Mr. Paparian.

19 I won't be reporting right now. And I'm going to
20 go straight to Mr. Leary. I know he has an extensive
21 report on the budget and so forth.

22 EXECUTIVE DIRECTOR LEARY: Thank you, Madam
23 Chair. Good morning, members.

24 First let me start by saying thank you for the
25 positive comments; particularly, Mr. Paparian, your

1 reports about staff. We appreciate those.

2 I have a number of kind of -- news bulletin kind
3 of items that I'd like to brief the Board on this morning
4 in regards to initially the Sonoma waste tire sites. I
5 want to begin by providing an update on the progress
6 report pursuant to your direction at the July Board
7 meeting related to the tire piles there.

8 As you directed, staff anticipates issuing
9 cleanup and abatement orders to the Group 1 sites this
10 week. Those are the Silacci Universal Portfolio,
11 Flochinni, the Beebe Family Ranch, and the Infineon
12 Raceway race tire sites. You also directed staff to
13 negotiate with the landowners regarding a Board-managed
14 remediation limited to tire removal and cost recovery.

15 On July 25th tire staff met with the property
16 owners of the Group 1 sites to explain the outcome of the
17 Board meeting and to identify rules and responsibilities
18 and to discuss next actions.

19 The consensus of the group was that satisfying
20 the requirements of the environmental agencies and
21 complying with CEQA were the critical issues that needed
22 to be addressed as soon as possible before any tire
23 remediation or erosion control measures could be
24 initiated. To this end staff is pleased to note that the
25 landowners are responding positively to the Board's

1 direction, working to initiate and complete biological
2 assessments and initial CEQA-related work.

3 In addition, the Sonoma -- southern Sonoma
4 Resource Conservation District is taking a proactive
5 leadership role, acting as a liaison with the Board staff
6 and facilitating the landowner's compliance with the Board
7 order.

8 Future meetings with the landowners and the RCD
9 staff are scheduled on a monthly basis.

10 Continuing the theme of cleanup. As I reported
11 to you, one of the three high priority sites identified in
12 the C&D site inventory earlier this year was the
13 Bethencourt site in Imperial County. You approved a
14 Board-managed cleanup in May. But we're hoping that the
15 operator would get the message and begin taking actions
16 himself. That indeed has happened. The operator brought
17 in equipment to grind the material. And in a letter dated
18 July 23rd the LEA confirmed the site has been cleaned up
19 and the enforcement case closed. This has been a real
20 success story for our cleanup and closed illegal and
21 abandoned site programs and for the LEA, getting ahead of
22 the potential problem situations and cleaning it up before
23 the situation developed further. Brad Williams of our
24 clean-up program and Jeff Lemoire of the Imperial County
25 LEA deserves special appreciation for their efforts.

1 Relatedly, the Florin-Perkins site, which was
2 identified as a top priority in the C&D inventory, was the
3 subject of an article appearing in the Sacramento Bee in
4 the Sacramento Bee just last week. Our staff continues to
5 coordinate with the Sacramento County LEA and the fire
6 department on efforts, with some apparent success to
7 reduce the threat of fire at the site. As you know from
8 the Bee article, the LEA's enforcement order has yet to
9 reach the global hearing panel. It's a possibility that
10 this will ultimately get appealed to the Board.

11 Then in regards to Crippen, final cleanup of the
12 Crippen debris piles commenced at the end of July. And
13 based on more rapid progress than expected, we now
14 anticipate completion in four to six weeks. As required
15 by the Board, additional agency contributions and
16 participation in the project are in place, including a one
17 million dollar offering from the U.S. EPA for hauling. At
18 the end of the day yesterday more than 1,000 truckloads of
19 debris have been removed from the site, about 26,000 cubic
20 yards, approximately 35 percent of the volume on that
21 site.

22 Assuming we average about 130 to 140 truckloads
23 per day and don't find any nasty surprises, staff
24 estimates that within four to six weeks we'll be finished.
25 Thanks to See Chuan Lee, the Board's project engineer, and

1 Wes Mindermann, the project is running smoothly and all
2 the agencies and contractors seem to be working well
3 together.

4 We have a brief news clip, I believe, of local
5 coverage of the initiation of clean-up activities that I
6 think we can run now. And then I have another couple
7 items.

8 (Thereupon a video was played.)

9 EXECUTIVE DIRECTOR LEARY: Thanks, Frank.

10 And then completing my responsibility to report
11 to you in regards to the granting of emergency waivers.
12 And it's kind of become a continuing series. The very
13 serious bark beetle infestation in southern California
14 continues to generate a lot of attention and our need to
15 respond.

16 Emergency waiver has been issued, this one by the
17 Riverside County LEA, to the Idyllwild Collection Station
18 in Riverside County. The collection station currently
19 serves as the primary staging area for trees and brush in
20 the communities of Idyllwild and Pine Cove prior to
21 transport to a local chipping and grinding operation.

22 The collection station is owned by Riverside
23 County Waste Management Department and operated by Waste
24 Management of the Inland Empire. The waiver to exceed the
25 station's permitted tonnage of 200 tons per day extends

1 through November 2nd of 2003.

2 Staff from the Waste Prevention and the Market
3 Development Division and from the Board's Legal Office
4 have held a workshop on draft conversion technology
5 regulations on August 1st in the Sierra Room. These
6 regulations apply to conversion technology facilities,
7 facilities using catalytic cracking, distillation,
8 gasification, hydrolysis, and pyrolysis. But they do not
9 apply to activities using bio-mass conversion, composting,
10 anaerobic digestion, or incineration.

11 The regulations will establish permit tiers that
12 are the same for conversion technology operations and
13 facilities as they are for transfer and processing
14 operations and facilities. And they require conversion
15 technology facilities to comply with the state minimum
16 standards for transfer and processing facilities.

17 The workshop participants: Including industry,
18 state and local government, environmental organizations,
19 university and Board staff. Interest is increasing in
20 conversion technologies as they can convert to organic
21 waste not currently recycled into marketable fuels and
22 chemicals. Participants develop recommendations on the
23 regulations and on broader strategic issues related to
24 conversion technologies. Staff will analyze workshop
25 input and anticipates presenting an item to the Board in

1 November on the draft regs and the workshop
2 recommendations.

3 And then, finally, as a result of the information
4 provided in the building material emission study report
5 that the Board approved in June, as well as the continuing
6 efforts of our sustainable building staff, the L.A.
7 Unified School District requested support from the Board
8 and from the Collaborative for High Performance Schools
9 (CHIPS) on a project to incorporate low-emitting recycled
10 content products in to their next phase of new school
11 construction.

12 Chair Linda Moulton-Patterson attended a recent
13 meeting and seconded the motion, which the CHIPS Board of
14 Directors unanimously approved, to provide official CHIPS
15 support for this project, which will result in the
16 construction of at least 50 schools, that will not only
17 incorporate recycled content building materials, but
18 provide healthier indoor environments.

19 That concludes my report. And thank you, Madam
20 Chair.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Any questions for the Executive Director?

23 I did want to announce that Mr. Washington will
24 be here. His plane was late, and so he was held up a
25 little bit. But he'll be here in the next few minutes.

1 Going over the agenda update. We will be having
2 a closed session today at 1:30 to discuss personnel and
3 litigation.

4 And items 1, 2, 30, 31, and 33 have been pulled
5 from the agenda. Item 29 will be continued to the October
6 Board meeting.

7 Items 13, 17 through 22, 26, 27, and 32 were
8 heard at the Committee level only.

9 Items 10, 15, 16, 23, 24 revised, 25, and 28 are
10 on the proposed consent agenda. And items 3 revised, 4, 5
11 revised 6, 7, 8, 9, 11, 12, 14 revised, and 34 will be
12 heard today by the full Board.

13 Again, items 10, 15, 16, 23, 24 revised, 25, and
14 28 are proposed for consent.

15 Any member wish to pull any of these items?

16 Seeing none.

17 Mr. Jones.

18 BOARD MEMBER JONES: Madam Chair, I'd like to
19 move adoption of the consent calendar, items 10, 15, 16,
20 23, 24 revised, 25, 26, 28.

21 VICE CHAIRPERSON MEDINA: Second.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
23 motion by Mr. Jones to approve the consent calendar as
24 read, and seconded by Mr. Medina.

25 Please call the roll.

1 SECRETARY WADDELL: Jones?

2 BOARD MEMBER JONES: Aye.

3 SECRETARY WADDELL: Medina?

4 VICE CHAIRPERSON MEDINA: Aye.

5 SECRETARY WADDELL: Paparian?

6 BOARD MEMBER PAPARIAN: Aye.

7 SECRETARY WADDELL: Peace?

8 BOARD MEMBER PEACE: Aye.

9 SECRETARY WADDELL: Moulton-Patterson?

10 CHAIRPERSON MOULTON-PATTERSON: Aye.

11 Before I begin with our regular full Board agenda
12 items, I'm going to go to the Committee chairs for a
13 report. Many of the items have been taken care of on
14 consent.

15 But Mr. Washington's not here right now, so I'll
16 skip to Mr. Paparian. All of your items are either on
17 consent or were committee-only.

18 Would you like to give an update on your
19 Committee at this time?

20 BOARD MEMBER PAPARIAN: I'll just give a very
21 brief one, Madam Chair.

22 We heard five items in the Committee. Three of
23 them we just dealt with on consent. Two, however, were
24 regulation items that are going up for further comment.

25 The regulations for alternative daily cover,

1 there was direction from the Committee to send those regs
2 out for a 15-day comment period, leaving in some
3 controversial language so that people would have an
4 opportunity to comment on that language and we could
5 benefit from those comments.

6 On the Phase 2 C&D regs, the C&D and inert debris
7 regs, we also directed that those regs go out for a 15-day
8 comment period. That item we're expecting to come back in
9 September.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,
11 Mr. Paparian.

12 Mr. Medina, your items also are on consent of
13 Committee only or pulled from the agenda. Would you like
14 to give a -- oh, I guess you have one item, 34, in Special
15 Waste is still on. Would you like to give a report?

16 VICE CHAIRPERSON MEDINA: Yes, I would. First,
17 let me start with Item Number 28, consideration of the
18 draft report entitled "Assessment of the Markets for the
19 Fiber and Steel Produced from Recycling Waste Tires."

20 This draft report was discussed, and the
21 Committee voted 3-0 to place it on the consent calendar.
22 And this report will also be presented at the tire
23 conference.

24 With regard to Item 29, Consideration of the
25 Draft Recycled Content in New Tires, this was heard. And

1 based on discussion, the item was moved to the October
2 Board meeting so that the contractor has an opportunity to
3 incorporate results from a study funded by the State of
4 North Carolina. The funding for the study came from the
5 Tire Recycling Fund, Fiscal Year 2001-2002, 2002-2003.

6 Item 30, consideration of proposed applicant
7 eligibility criteria and evaluation process for the Fiscal
8 Year 2003-2004 Tire Product Commercialization Grant
9 Program. This was pulled from the August agenda and will
10 be heard at the September Special Waste Committee meeting.

11 Item 31, consideration of the draft report
12 entitled "Extending the Tire Lifespan of Tires" was
13 deferred to the September Special Waste Committee to allow
14 the contractor to address concerns from the Energy
15 Commission.

16 Item 32, discussion of waste tire enforcement
17 program and activities, was heard at the Committee level.
18 Staff provided a summary of tire programs and the
19 enforcement options available.

20 And that's the report from the Special Waste
21 Committee.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
23 Medina.

24 Ms. Peace, also your items are on committee only.
25 Would you like to give an update?

1 BOARD MEMBER PEACE: Okay. The Education and
2 Public Outreach Committee heard an update on pending
3 environmental education legislation, an overview of the
4 Environmental Ambassador Grant recipient program, and we
5 had a good discussion on the draft communication strategy,
6 all of which were just for the Committee to hear this
7 month.

8 Deputy Director Tricia Broddrick brought us up to
9 date on Assembly Member Pavley's Bill 1548. This bill
10 directs our Education Office to develop environmental
11 principles that will ultimately be included in a model
12 curriculum and in to the criteria used to select
13 textbooks. That bill will go to the Senate Appropriations
14 later this month.

15 On the draft communications strategy, we
16 disagreed somewhat on the extent to which the Board should
17 promote itself versus its programs. But I think the two
18 are not mutually exclusive. And it's clear we needed more
19 information regarding all the outreach efforts this Board
20 does so we know how to better prioritize and focus our
21 outreach efforts given our budgetary constraints.

22 The Committee directed staff to compile a matrix
23 of all the individual program's outreach efforts, whether
24 it's done by our OPA Office or other program staff or
25 through our various grant programs, and how much they all

1 cost.

2 I also asked the OPA staff visit each Board
3 office to get individual member's suggestions on outreach
4 options. So expect a visit from Frank or Tom. A revised
5 item with prioritized options will be presented to the
6 September Committee meeting. And we anticipate the Board
7 will see a more detailed draft strategy in October.

8 So that is all I have to report.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.
10 Peace.

11 Mr. Jones, we're going to be hearing your
12 committee today, Sustainability and Market Development, of
13 which you're Chair. Would you like to start off with an
14 update?

15 BOARD MEMBER JONES: Thanks, Madam Chair.

16 We heard 17 items. Four of them were originally
17 put on consent: The RMDZ eligibility criteria; the NDFE
18 for Santa Barbara County; the new Source Reduction and
19 Recycling Element and all the other documents for a new
20 City of Laguna Woods in Orange County; and then a
21 discussion on the trash bags I had offered. That had
22 originally gone on consent. And I had offered that if any
23 member wanted to pull for a discussion today, that was
24 clearly appropriate. So we'll be hearing that item in
25 full.

1 We have seven items on fiscal consensus. These
2 were all loans that were approved on 3-0 votes. Just
3 awaiting confirmation from the Loan Committee as to the
4 viability of these loans from our banking folks. Those
5 loans total about \$7,157,555. Some are split funded
6 between tires and RMDZ. There's a lot of good projects in
7 there.

8 We are going to hear the RMDZ Loan Program
9 general eligibility criteria. I think just like other
10 members, I've received plenty of correspondence from RMDZ
11 zone administrators who basically like it, but would like
12 one item put back in.

13 We are going to hear the RPPC compliance
14 agreements.

15 And, most importantly, as a -- City of Gardena,
16 Item 18, which was Committee, had requested an extension.
17 They're long overdue on their compliance for a -- on their
18 compliance order. They hadn't even turned in the first
19 piece of it yet. A Board meeting had been -- or an item
20 had been set for September 13th, I think, for a full
21 hearing in front of the Board to assess penalties. The
22 Committee unanimously rejected the request for an
23 extension and told them to bring the item to the full
24 Board for penalty. I think that's a pretty big issue.

25 The Committee did -- the Committee item only

1 talked about -- we did put it out for a 45-day comment
2 period, the RPPC regs regarding assessment of civil
3 penalties.

4 We had a discussion on the Potrero Hills Landfill
5 disposal reports. We gave staff the direction to continue
6 to work with them. They've gotten the information in.
7 They're going to put a web page together to make sure the
8 list issues that aren't up to speed.

9 And then, again, a compliance order with the City
10 of Gardena.

11 And then we did have a discussion on the siting
12 element location issues. And that's going to come -- that
13 was just a discussion-only item.

14 I do want to say that I got involved in that
15 discussion, and went back and looked at the transcript.
16 And in fact I had overstated my position at that Committee
17 meeting, only because I was recalling my negotiations with
18 the Senator more so than the actual outcome of the
19 meeting. And clearly that was -- there was an awful lot
20 of things that transpired back at that time. And the
21 majority majority was a big issue that the local
22 governments and folks had brought up on expansion. So I'm
23 just letting everybody know that I did go back and look at
24 the original transcript. And I've got to augment my
25 statements, that in fact the Board had voted to -- that it

1 was a dot on the map, a location, and that as long as it
2 was contiguous, that that was -- CEQA had to be done
3 locally instead of a majority majority. And that was the
4 outcome of that vote back in 2000.

5 And sometimes it's good to go back and read the
6 transcripts, you know. You only got so much memory. So
7 I'm admitting that I may have overreacted.

8 Trash bag compliance on Item 14, we talked about.
9 And just so everybody knows, the interest rate on the SMIF
10 for our loans was 2.5 percent. It's dropped to 1.9
11 percent. It's pretty amazing. We do have an item talking
12 about changing that to reflect prime.

13 Thanks, Madam Chair.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
15 Jones.

16 That brings us to Item Number 3. And I see, Mr.
17 Orr, that you're in charge today and you're going to be
18 reporting?

19 MR. ORR: I am. Thank you, Madam Chair. Good
20 morning, Board members. I'm Bill Orr with the Waste
21 Prevention and Market Development Division.

22 CHAIRPERSON MOULTON-PATTERSON: Excuse me, Mr.
23 Orr. I apologize.

24 Mr. Washington, did you have any ex partes?

25 BOARD MEMBER WASHINGTON: No, Madam Chair. I'm

1 up to date.

2 CHAIRPERSON MOULTON-PATTERSON: Welcome.

3 Anything that you wanted to report on on your Budget
4 Committee or anything at this time?

5 BOARD MEMBER WASHINGTON: No, everything is fine.

6 CHAIRPERSON MOULTON-PATTERSON: Okay, great.

7 BOARD MEMBER WASHINGTON: Well, it was not fine,
8 but --

9 (Laughter.)

10 CHAIRPERSON MOULTON-PATTERSON: We'll talk about
11 that later.

12 Okay, Mr. Orr. And again I apologize. I wanted
13 to make sure the record reflected Mr. Washington had
14 arrived.

15 MR. ORR: I'd like to give a brief preface before
16 we get into the loan items today.

17 For Fiscal Year 2003-2004, the Recycling Market
18 Development Revolving Loan Program is budgeted with \$10
19 million in loans from the RMDZ sub-account, plus an
20 additional 1.5 million from the Tire Fund.

21 Today the Board will consider seven loans of
22 which \$5,657,555 will be funded from the RMDZ account and
23 1.5 million will be funded from the tire fund. After
24 these loans are fully funded there remains approximately
25 \$4,342,445 in the RMDZ fund available for future loans

1 this fiscal year. So we're definitely getting a jump on
2 this fiscal year.

3 Jumping into Item 3. All of the loans were
4 approved at the Committee and placed on fiscal consensus
5 pending the approval of the Loan Committee. Item No. 3 is
6 a loan to Earthworm Soil Factory in the amount of \$300,000
7 from the RMDZ account.

8 And staff recommends that the Board approve this
9 loan and adopt Resolution 2003-409.

10 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Mr. Orr, I'm not quite
12 sure I heard. Just to be clear. Did the Loan Committee
13 approve all of these?

14 MR. ORR: The Loan Committee approved all of the
15 loans on August 6th. They added one condition to one of
16 the loans, that I'll be talking about, under that
17 particular loan. But --

18 BOARD MEMBER PAPARIAN: Okay. But not this loan?

19 MR. ORR: Not this loan. They approved all seven
20 of the loans, and a condition on the last one that I'll be
21 talking about.

22 BOARD MEMBER PAPARIAN: Okay. If there's nothing
23 else, I'm prepared to move, Madam Chair.

24 CHAIRPERSON MOULTON-PATTERSON: Okay.

25 BOARD MEMBER PAPARIAN: I'll move Resolution

1 2003-409 revised, consideration of the Recycling Market
2 Development Loan Program application for Larry Royal and
3 Karen Royal dba Earthworm Soil Factory.

4 BOARD MEMBER WASHINGTON: Second.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
6 motion by Mr. Paparian, seconded by Mr. Washington, to
7 approve Resolution 2003-409 revised.

8 Please call the roll.

9 SECRETARY WADDELL: Jones?

10 BOARD MEMBER JONES: Aye.

11 SECRETARY WADDELL: Medina?

12 VICE CHAIRPERSON MEDINA: Aye.

13 SECRETARY WADDELL: Paparian?

14 BOARD MEMBER PAPARIAN: Aye.

15 SECRETARY WADDELL: Peace?

16 BOARD MEMBER PEACE: Aye.

17 SECRETARY WADDELL: Washington?

18 BOARD MEMBER WASHINGTON: Aye.

19 SECRETARY WADDELL: Moulton-Patterson?

20 CHAIRPERSON MOULTON-PATTERSON: Aye.

21 Number 4, Mr. Orr.

22 MR. ORR: Yes. This is a loan to Pre Plastics
23 for an amount of \$510,000 from the RMDZ sub-account.

24 And staff recommends that the Board adopt
25 Resolution 2003-410.

1 BOARD MEMBER JONES: Madam Chair?

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: I'll move adoption of
4 Resolution 2003-410, the consideration of the Recycling
5 Market Development Revolving Loan Program application for
6 Pre Plastics, Inc.

7 BOARD MEMBER PEACE: Second.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
9 motion by Mr. Jones, seconded by Ms. Peace.

10 Without objection, substitute the previous roll
11 call.

12 That takes us to Item 5.

13 MR. ORR: Yes. Agenda Item 5 is a loan to US
14 Rubber in the amount of \$562,000 from the Tire Fund.

15 And staff recommends that the Board adopt
16 Resolution 2003-411.

17 BOARD MEMBER PAPARIAN: Madam Chair?

18 CHAIRPERSON MOULTON-PATTERSON: Did you have a
19 question, Mr. Washington?

20 BOARD MEMBER WASHINGTON: No.

21 Okay. Mr. Paparian.

22 BOARD MEMBER PAPARIAN: I'll move adoption of
23 Resolution 2003-411 revised, consideration of the
24 Recycling Market Development Revolving Loan Program
25 application for US Rubber Recycling, Inc.

1 BOARD MEMBER PEACE: Second.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
3 motion by Mr. Paparian, seconded by Ms. Peace, to approve
4 Resolution 2003-411 revised.

5 Please substitute the previous roll call, without
6 objection.

7 Okay. Number 6.

8 MR. ORR: Yes. Agenda Item 6 is a loan to Sierra
9 Pacific Packaging in the amount of \$2 million.

10 And staff recommends that the Board adopt
11 Resolution 2003-412.

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington.

13 BOARD MEMBER WASHINGTON: Madam Chair, I'd like
14 to move adoption of Resolution 2003-412, consideration of
15 the Recycling Market Development Revolving Loan Program
16 application for the Sierra Pacific Packaging, Inc.

17 BOARD MEMBER JONES: Second.

18 CHAIRPERSON MOULTON-PATTERSON: Motion by Mr.
19 Washington, seconded by Mr. Jones, to approve Resolution
20 2003-412.

21 Without objection, we'll substitute the previous
22 roll call.

23 Number 7.

24 MR. ORR: Yes. Agenda Item 7 is a loan to Looney
25 Bins in the amount of \$2 million from the Recycling Market

1 Development Zone account.

2 And staff recommends that the Board adopt
3 Resolution 2003-413.

4 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

5 BOARD MEMBER PAPARIAN: Madam Chair, in addition
6 to noting that this company has one of my favorite names
7 of any of the folks to come before us, I'd like to move
8 adoption of Resolution 2003-413, consideration of the
9 Recycling Market Development Revolving Loan Program
10 application for Looney Bins, Inc.

11 BOARD MEMBER PEACE: Second.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
13 motion by Mr. Paparian, seconded by Ms. Peace, to approve
14 Resolution 2003-413.

15 Please substitute the previous roll call.

16 Number 8.

17 MR. ORR: Agenda item No. 8 is a loan to Three D
18 Plastics in the amount of \$250,000 from the RMDZ account.

19 And staff recommends that the Board adopt
20 Resolution 2003-414.

21 BOARD MEMBER JONES: Madam Chair.

22 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

23 BOARD MEMBER JONES: I'll move adoption of
24 Resolution 2003-414, consideration of the Recycling Market
25 Development Revolving Loan Program application for Three D

1 Plastics, Inc.

2 BOARD MEMBER PEACE: Second.

3 CHAIRPERSON MOULTON-PATTERSON: Motion to approve
4 by Jones, seconded by Peace, Resolution 2003-414.

5 Please substitute the previous roll call.

6 Number 9.

7 MR. ORR: Yes. Agenda Item 9 is a loan to Hunter
8 Paine Enterprises. And this is actually a split-funded
9 loan that would include \$597,555 from the RMDZ sub-account
10 and an additional \$937,500 from the Tire Fund, for a total
11 of \$1,535,055.

12 This is the loan that the Loan Committee added a
13 condition. They recommended that a condition be added to
14 take security interest in their intellectual property
15 rights, if feasible. And if you have any questions about
16 that, Jim LaTanner or John Smith are available to answer
17 them.

18 But staff would recommend the adoption of
19 Resolution 2003-415. I believe that one's revised as
20 well.

21 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

22 BOARD MEMBER JONES: Madam Chair, just a question
23 on that.

24 Is the loan applicant prepared to deal with that?
25 It sounds like they've got some proprietary technology

1 that we want an interest in as far as collateral. Are
2 they willing to do that?

3 MR. LaTANNER: Good Morning. Jim LaTanner,
4 Supervisor for the Recycling Market development Revolving
5 Loan Program.

6 Yes, Hunter Paine is prepared to do that. They
7 were on line at the time we talked about this in Loan
8 Committee.

9 We added the caveat "where feasible" because
10 we've never done this type of collateral with a loan
11 program. So our legal counsel and theirs are going to try
12 to work out the documents. And we have two Loan Committee
13 members that have done this in the past that are going to
14 help us do it.

15 BOARD MEMBER JONES: Good.

16 Madam Chair.

17 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

18 I just have a question.

19 Did you say that this was revised, this
20 resolution?

21 MR. ORR: Well, I think -- should it be --

22 CHAIRPERSON MOULTON-PATTERSON: Because I don't
23 have it.

24 MR. ORR: Okay. Well, just -- I guess it's not
25 revised, but with that one condition.

1 CHAIRPERSON MOULTON-PATTERSON: Okay. I just
2 wanted to clear that up. Thank you.

3 Mr. Jones.

4 BOARD MEMBER JONES: Thanks, Madam Chair.

5 Move adoption of Resolution 2003-415,
6 consideration of the Recycling Market Development
7 Revolving Loan Program application for Hunter Paine
8 Enterprises, LLC, including that latest condition.

9 BOARD MEMBER PEACE: Second.

10 CHAIRPERSON MOULTON-PATTERSON: Okay. Motion by
11 Mr. Jones, seconded by Ms. Peace, to approve Resolution
12 2003-415.

13 Please substitute the previous roll call.

14 That brings us to Number 11, which is the general
15 eligibility criteria, revolving loan program.

16 Mr. Orr.

17 MR. ORR: Yes.

18 Jim LaTanner will present the item on the general
19 eligibility criteria for the loan.

20 MR. LaTANNER: Jim LaTanner again for the RMDZ
21 program.

22 Agenda Item 11 is a summary of several Board
23 actions. And we're trying to put in to one document some
24 of the underwriting criteria the apply to all the loans.
25 Specifically with this item, staff was making three

1 recommendations to change the way we process loans.

2 In the agenda item on page 2, the first item is a
3 discussion on personal residence as collateral.

4 Currently, the Board policy as approved in an October '99
5 agenda item is to not take personal residences as
6 collateral for loans. Staff was recommending that that be
7 upheld and we continue not taking them.

8 The second item is to consider changing the
9 interest rate on the loan program because the SMIF rate is
10 currently 1.9 percent and we're lending a fixed rate for
11 10 to 15 years.

12 The third change that staff's recommending is to
13 require State Agency Buy-Recycled Campaign reporting for
14 the use of loan funds used to purchase the 13 items under
15 SABRC and any items used for the sustainable building
16 requirement of 25 percent.

17 I believe there are some guest speakers slips
18 from the ECI RMDZ and possibly some others on this.

19 I would open up to Board discussion.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 Mr. Jones, did you -- oh, okay.

22 BOARD MEMBER JONES: Madam?

23 CHAIRPERSON MOULTON-PATTERSON: Yes.

24 BOARD MEMBER JONES: If there's no speaker
25 slips --

1 CHAIRPERSON MOULTON-PATTERSON: Yes, we have one.

2 I'm sorry. My fault here.

3 Steve Lautze, California Association of RMDZ's.

4 Sorry, Steve.

5 CHAIRPERSON MOULTON-PATTERSON: Good morning.

6 MR. LAUTZE: Good morning, Madam Chair and
7 members.

8 I first off want to thank Jim LaTanner and the
9 other Waste Board staff for their collaborative effort in
10 including our association. I'm Steve Lautze, President of
11 the California Association of RMDZs. We like to refer to
12 ourselves as the local sales force for the RMDZ Program.

13 And it is also great to see six loans come
14 through your Board today. It's an example of the variety
15 of projects that are coming forward through the RMDZ
16 Program.

17 I trust you all received my letter on the Item
18 11, so I'll try to be brief on my main comments.

19 The main point I want to make is that our
20 association in no way means to trivialize the risk that
21 you, as Waste Board members, take if you are to allow
22 homes as collateral on RMDZ loans and in the rare and --
23 so far rare event that there would be a default on such a
24 loan and you might face liquidating someone's home.

25 Having said that, what we really want to

1 emphasize is that the biggest risk taker in an RMDZ loan
2 transaction is the entrepreneur him or herself, who takes
3 the initiative to close the loop as a processor or
4 manufacturer.

5 As you all know, being a manufacturer in
6 California especially right now is extremely challenging,
7 with energy prices, workers' comp rates, high land and
8 labor costs, and the general challenge of meeting a
9 payroll in a slow economy.

10 Certainly the example you've heard in another
11 communication you received about Talco Plastics, which did
12 use a home as collateral in a transaction that predated
13 1999, is a very strong example if you know much about
14 Talco.

15 In this context we feel that entrepreneurs should
16 be able to offer their homes as collateral in RMDZ
17 transactions if they choose to take that risk. And we
18 hope you will consider that as you consider it and vote on
19 this item.

20 Finally, regarding the increase -- the proposed
21 increase of the interest rate or change in index of the
22 interest rate from SMIF to prime, we would like to just
23 highlight and state that we'd like some clarification from
24 the Board on: If prime goes up past a certain point, will
25 there be a certain trigger and review of that index, since

1 prime was as recently as January of 2001 at 9.5 percent
2 and SMIF and the RMDZ rate has never gone over 6.5 percent
3 in the history of the program.

4 And then just we would also ask that the
5 effective date for the interest rate change be January 1
6 as opposed to what will be approximately November 10th,
7 because that's when we usually change interest rates.

8 And I'm available for any questions.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you.

10 Mr. Paparian.

11 BOARD MEMBER PAPARIAN: Yeah. I'm still kind of
12 torn on this one. Do we have any indication that there
13 are folks who would have wanted a loan that didn't get one
14 because they couldn't put their home up for collateral?

15 MR. LAUTZE: What we know is that a quarter of
16 the portfolio went up -- from the outset -- from the
17 inception of the RMDZ Program in '93 until October of '99,
18 it was okay for an entrepreneur to use collateral -- use
19 their home as collateral. And at that time that the
20 policy was changed we know that a quarter of the
21 portfolio -- or 13 out of 54 loans, almost a quarter of
22 the portfolio, did use that, that the folks chose to do
23 that.

24 It's kind of a chicken and egg question. What we
25 in the field have been telling folks who approach us is

1 that -- in our first meeting we tell them, you know,
2 "These are some of the basic rules." And one of the basic
3 rules is you cannot use your home as collateral. So we
4 don't have a lot of empirical evidence because it's --
5 like I say, it's chicken and egg.

6 What we're saying is this is a tool that should
7 be restored and we want you to review. And this is the
8 best shot we've had to have such a review.

9 BOARD MEMBER PAPARIAN: If somebody wanted to use
10 their home as collateral, presumably that means they have
11 some equity in their home that's available to use as
12 collateral. Why wouldn't they just get a home equity loan
13 and let the bank deal with, you know, the foreclosure if
14 that had to happen rather than us?

15 MR. LAUTZE: It's simpler to go direct. It's
16 commonplace to go direct, if you get a loan, to use it
17 with the lender. There are -- Mr. LaTanner might be able
18 to comment on how many of the loan packages the RMDZ
19 Program processes involve another lender versus our total,
20 you know, lending on a single package. So it's just a --
21 it would be another hoop. I agree that it is
22 theoretically possible.

23 BOARD MEMBER PAPARIAN: Yeah, I wonder, Mr.
24 LaTanner, do you want to comment on that?

25 CHAIRPERSON MOULTON-PATTERSON: While he's coming

1 up here, Mr. Paparian, I think Mr. Jones and I were the
2 only ones that were on the Board when this was put in.
3 And it was just -- as I remember it -- I certainly see
4 your side. I really do. And I'm not sure how I'm going
5 to go on this one. But we were put in a very bad position
6 of taking or possibly having to take someone's home. And
7 it was a single person, a woman, an older woman. And we
8 decided we did not want to be in the business of taking
9 someone's only asset. And that was my recollection. And
10 I don't know if that was yours, Mr. Jones. But I
11 certainly understand what you're saying. But that was the
12 history of it.

13 BOARD MEMBER PAPARIAN: Yeah, and that's where
14 I'm thinking -- you know, banks are typically more in the
15 business of dealing with people about their homes, and an
16 equity loan might be -- you know, even though it may be
17 more complex, it may be a better way to go with it rather
18 than us being in that business. But I'm still open and a
19 little bit torn on this.

20 And maybe, Mr. LaTanner, if you wanted to address
21 that question --

22 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace has on
23 her light.

24 Ms. Peace, and then I'll go back to Mr. LaTanner.

25 BOARD MEMBER PAPARIAN: Yeah, let me just add one

1 other question for Mr. LaTanner, is if he's aware of any
2 other state agencies in their loan programs that put any
3 restrictions like this on them.

4 CHAIRPERSON MOULTON-PATTERSON: Good question.

5 Okay. Go ahead and answer, Ms. Peace said,
6 before she has the floor.

7 MR. LaTANNER: The Trade and Commerce Agency I
8 believe does take homes as collateral, primarily for the
9 underground tank storage loans to gas stations, because I
10 worked with that program over there.

11 I should like to clarify. The reason people come
12 to us to take homes is one of two reasons: One, because
13 they may not qualify for a conventional home or second
14 mortgage with their bank. But primarily they're looking
15 to us for a working capital, to finance accounts
16 receivable, inventory, training perhaps, permits with
17 that. Those items generally don't provide a solid
18 collateral for the loan. So they offer or want to offer
19 the home as collateral. Most of our loans, probably 80
20 percent of it, is equipment financing, and we'll finance
21 75 percent of the equipment. It's when they want those
22 non-equipment items that they want to put their home up
23 for collateral.

24 Since inception of the program in October '99,
25 yeah, 25 percent of the portfolio did have residential

1 properties. That was the prerogative of the loan staff,
2 and the way the program was run, we'd take all collateral
3 available. What we did after that item was approved, we
4 went back to those loans that had a residential property,
5 asked the applicant if they wanted us to release that
6 property if they had sufficient equity in the equipment.
7 And a number of those did. We still have approximately
8 five loans that have the residential property on it, and
9 owners are not interested in getting appraisal on the
10 equipment.

11 Our prerogative from the staff's point is we're
12 not aware of any recycling business that was -- that
13 wanted an RMDZ loan that did not apply because they
14 thought the only thing available. My question would be if
15 they need a loan -- first they're going to buy some
16 equipment and finance 75 percent of that. But in doing
17 so, they also want the working capital receivables.
18 That's when it really becomes an issue of the residential
19 properties.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you.

21 Ms. Peace.

22 BOARD MEMBER PEACE: Yeah, I'd just like to say
23 that I agree with staff's recommendation. I do not think
24 that this Board should be put in a position of having to
25 take -- you know, having to foreclose on a person's home.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.

2 Mr. Jones.

3 BOARD MEMBER JONES: Thanks, Madam Chair.

4 You and I were the only two here. And, you know,
5 when we had this item in committee, it was clear that --
6 it was two to one -- that we shouldn't take the houses.
7 But I was the one that said take the house.

8 And I was one of the six that did it the last
9 time we had the meeting, for a real simple reason. We're
10 asking -- you know, this whole loan program is set up to
11 try to grow something. And a lot of what we're dealing
12 with or used to deal with, and I think it's still kind of
13 a mix, is people that have ideas, that want that chance to
14 be an entrepreneur, to take a risk. Taking a risk is part
15 of what drives businesses to be successful. A lot of
16 businesses aren't successful. But somebody that's willing
17 to put up their home as collateral is serious about making
18 something work. And there is not a bank that I know of
19 that won't take a home as part of the collateral package
20 on any commercial endeavor, on any business endeavor.

21 The home is always -- could be listed -- it
22 usually has to be listed on those loans. So to me it was
23 just part of doing business. And I think that -- it's
24 difficult to have to sit up here and make a decision to
25 foreclose on somebody. That's why our staff works so hard

1 to try to pull people out.

2 So we have a choice to make today. We can say we
3 don't want to face having to take somebody's, which is
4 legitimate. Or we can say we want to give everybody that
5 wants to take a chance to be an entrepreneur and to be
6 successful to use everything in their power that they have
7 equity in to be able to make that happen. You go to the
8 bank and you get an equity loan on your house. That's one
9 more payment you have to make while you're trying to start
10 up a business. Putting the house up as collateral, there
11 is no added payment. There's just the risk that you may
12 lose that if you're not successful. That could be the
13 difference between making a business or not.

14 So, truthfully, I like all the options here
15 except that one. I think that we should accept the home
16 as collateral because -- go back to what this program was
17 about. It wasn't about people coming in -- big business
18 coming in and taking advantage of a 1.9 percent interest
19 rate. It was about stirring emotion and giving people
20 opportunity to be successful. And if they're willing to
21 put their house up, we ought to be willing to pull the
22 trigger if we have to. That's what I think.

23 MR. LaTANNER: I would just add that the Federal
24 SBA Loan Program basically requires you to put your house
25 up whether or not there's equity in all of those.

1 You should also -- the one loan approved today
2 for Earthworm Soil Factory, they're matching funds. They
3 went out and got a second mortgage on the home to beat
4 the -- get the hundred percent financing. We set -- did
5 75 percent and they did 25 through their bank.

6 CHAIRPERSON MOULTON-PATTERSON: Okay.

7 MR. LAUTZE: If I could just add one more point.

8 I understand you're guarding against the
9 worst-case scenario, and that you and Steve went through
10 that. And I appreciate that. I'm asking you also to
11 consider the other, at that time, 12 or 13 loans that
12 arguably happened because this provision existed. And
13 that when RMDZ clients come to us, we are able to say this
14 is specialized financing for recycling base manufacturing
15 that you can't typically get at a bank.

16 But you can't use your home as collateral. And
17 that is not the norm in financing. So, you know, it does
18 affect how people think of the program. Think of it from
19 the front end, not just from the worst-cased back scenario
20 is what I'm asking.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
22 Lautze.

23 Ms. Peace.

24 BOARD MEMBER PEACE: Again I'd just like to say
25 if people want to take a risk with their home, then they

1 go to the bank to get the loan; that we should not be in
2 the position of having to foreclose on a home.

3 Today we lent out more than half the money that
4 was in loan fund. None of those people needed to put up
5 their home as collateral. So I think there's plenty of
6 businesses out there that we can help that would not need
7 to put their home up for collateral. So that's my
8 position.

9 CHAIRPERSON MOULTON-PATTERSON: Would you like to
10 move that?

11 Oh, Mr. Washington.

12 BOARD MEMBER WASHINGTON: Just before you do
13 that. You know, it's interesting you have these type of
14 debates on issuing the loans on terms of people's home.
15 No one has thought about the condition that the State of
16 California is in. We have the worst rating right now that
17 the State of California has ever had.

18 Just imagine -- this is almost to save someone
19 from themselves. It's just like my house. If I wanted to
20 go out and do something, I wanted to buy some property, I
21 wanted to buy some -- to start up a business, and I know
22 that California has no -- we have zero credit rating right
23 now in the State of California. We've shut down our
24 Commerce Department in the State of California.

25 I'm missing something here, because if we're

1 going through this -- our budget, we're still talking
2 about a deficit of about \$9 billion next year in our state
3 budget. So we're not looking at an uprising here. We're
4 still talking about a slippery slope to hell almost in the
5 State of California. The only way people are going to get
6 out of this is to put up their personal properties. I'm
7 not willing to do that to anyone. I'm not willing for
8 someone in a time like this to know that the only thing
9 that they have available to them is their homes to put up,
10 and at the end of the day, as Ms. Peace just said, we turn
11 into a mortgage company where we're starting the process
12 of taking people's homes from them. I'm not willing to go
13 down that street.

14 Back then when you voted on this stuff it was
15 probably high times back then. But these are not high
16 times now. And I think we're in a very dangerous
17 situation where we start allowing people to use their
18 personal homes as collateral on businesses that
19 potentially could fail. We're losing businesses in the
20 State of California. On a rapid pace people are leaving
21 California. And I'm not willing to do that to the people
22 on a personal level with their homes.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
24 Washington. I concur. I, you know, certainly see your
25 point. But I also -- in the USA today, we have a 40

1 percent -- 41 percent of the homeless are families. And I
2 just don't want to be a part of that. And I can't vote
3 for this.

4 Mr. Paparian and then Mr. Medina.

5 BOARD MEMBER PAPARIAN: Madam Chair, Mr.
6 Lautze --

7 CHAIRPERSON MOULTON-PATTERSON: Oh, I mean I can
8 vote for this, but I can't vote for changing it. Sorry.

9 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

10 Mr. Lautze brought up another -- a second issue.
11 I don't get lost as we move forward with the resolution.
12 And that was just a request to delay the interest rate
13 change until January 1st. I assume that's no problem with
14 staff, to look at January 1st instead of November?

15 MR. LaTANNER: What I would ask the Board to do
16 is in the agenda item look at Attachment 2. It's a line
17 graph showing the historical rate of prime and the
18 historical interest rate of SMIF, which is what we
19 currently use.

20 BOARD MEMBER PAPARIAN: Yeah. I think the
21 question is not whether we should go in that direction;
22 it's just whether we should initiate it in November or
23 initiate it on January 1st.

24 MR. LaTANNER: Well, after today there remains
25 approximately 2,300,000 available for future loans to come

1 to the Board. If you -- we probably have one loan for
2 September, maybe for the October Board meeting that could
3 use most of that. The question is: Do you want that 2.3
4 million to go out at the SMIF rate of 1.9 or do you want
5 it to go out at 4 percent?

6 BOARD MEMBER PAPARIAN: Gentleman, I mean -- I
7 understand that. But on the other hand what we're hearing
8 from the administrators is they need some time to gear up
9 at the new interest rate. But you're saying they don't.

10 MR. LAUTZE: Is that what you're saying.

11 It's really -- my point is that when -- again,
12 when we're marketing the program, we tell them what we've
13 been told in our training as zone administrators, which is
14 the interest rate changes semiannually, July 1 and January
15 1.

16 We are in accord that 1.9, you know, is not an
17 acceptable long range future. What we're asking for,
18 however, is 50 days to say that for the applicants that
19 are in the pipeline who have been told in the absence of
20 any other action that the interest rate that's holding now
21 will hold until January 1, will hold till January 1.
22 That's my point. There is no doubt there will be a loss
23 possibly if loans get processed at 1.9 instead of 4.

24 CHAIRPERSON MOULTON-PATTERSON: Mr. Medina, did
25 you -- Mr. Medina and then Mr. Jones.

1 VICE CHAIRPERSON MEDINA: In regards to the first
2 issue, yeah, I'm not in favor of allowing personal
3 residences as collateral.

4 My main concern had to do with issue number 2, is
5 I wanted to know what impact increasing the rate would
6 have in regard to people applying for our loans. Is that
7 going to substantially discourage people from a loan --
8 for these loans?

9 MR. LaTANNER: Well, one answer. Fire & Light up
10 on the coast, when they applied for their RMDZ loan,
11 needed the super low interest rate in order to be able to
12 qualify for our larger loan and have a multi-payment and
13 still cash flow. That's one instance where you wouldn't
14 want to increase the rate. Most of the loans they should
15 be able to absorb a 2 percent increase in the interest
16 rate. You know, if 2 percent makes a difference whether
17 that company's going to qualify or not, you better drop
18 turning the loan down, because that's not that much
19 additional interest to pay.

20 There's always been an historical trend of a
21 number of businesses applying simply because the rate's
22 low. And the matching funds are from a bank, but the
23 applicant wants us to finance it at the lower rate. We're
24 using the interest to help pay for the -- cover the
25 administration of the program. And at 1.9 it's not much.

1 VICE CHAIRPERSON MEDINA: No, I understand that.
2 I still would like to see the interest rates reasonable
3 enough because this is a very particular industry that
4 we're helping to start up or to move along.

5 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

6 BOARD MEMBER JONES: Just on the timing issue. I
7 think that the -- we've got \$10 million available this
8 year. The only thing that's going to sustain this program
9 in the future if we don't deal with some of our other
10 options here in the next month or two is the interest
11 that's being paid, interest and principal, which means
12 that the following year it's going to be 5 million.

13 If we lend money at 1.9 and we let the world know
14 that it's going to stay that way till January, we're going
15 to have more big companies coming in to take advantage of
16 that rate than we are what this was intended for. It
17 happened before. It's going to happen again.

18 I think we should stick to the November date.
19 That lets everybody in the pipeline know that their rate
20 is being held. Anybody coming forward they're going to
21 pay for it. It's still cheaper than what money's on the
22 street. But you're going to eat this up and you're not
23 going to have any money to keep this program going. So
24 while it's nice to wait till January for consistency
25 standpoint, there's not a whole lot of consistency right

1 now because of the -- you know, the issue we're dealing
2 with.

3 So I would suggest that we go to the November
4 date. And those that are in the pipeline will take
5 advantage and we won't have people coming in getting the
6 last 3 million.

7 MR. LAUTZE: Yeah, I don't think that's a
8 make-or-break issue, the timing, so much as the trigger
9 and what we're going to do if prime goes up.

10 And if I could answer Mr. Medina's question.

11 We feel that the rate for the RMDZ program needs
12 to be below market. It does not need to be 1.9 to sustain
13 it. So we're certainly willing to change the index and
14 see what happens because we're trying to sustain this loan
15 program as well.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you for
17 that clarification.

18 MR. LaTANNER: And market rate is generally what
19 banks charge. It's prime rate floating on a daily basis
20 plus 2 to 4 percent. So if they don't get our loan,
21 they're looking at a 68 percent rate. And we're only
22 asking to take it up to 4. We're still well below market.

23 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

24 BOARD MEMBER JONES: Madam Chair, if there's no
25 more discussion, I'll honor the wishes of the rest of my

1 Board members on this collateral. But I personally, you
2 know, think we ought to include it. But I won't -- I'll
3 move adoption of Resolution 2003-417, consideration of the
4 revision to the Recycling Market Development Revolving
5 Loan Program General Eligibility. And the date of that
6 new rate is November --

7 MR. LaTANNER: -- 12th.

8 BOARD MEMBER JONES: -- 12th.

9 VICE CHAIRPERSON MEDINA: Second.

10 And that would be a revised resolution?

11 BOARD MEMBER JONES: Revised.

12 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

13 BOARD MEMBER PEACE: Yeah. Did we do any more
14 discussion then on a trigger for the loan rate that got to
15 a certain point where we would review it and look at it
16 again?

17 BOARD MEMBER JONES: Madam Chair, I'll add to my
18 thing, that the -- Committee we said let us know when it
19 got to 6 percent or some -- or what did we --

20 MR. LaTANNER: Five point five. But generally we
21 won't --

22 BOARD MEMBER JONES: Five point five. It comes
23 every six months.

24 MR. LaTANNER: Right. And we need about six
25 weeks before the Board meeting to prepare an agenda item

1 if we're going to change it.

2 BOARD MEMBER JONES: So we'll get notification of
3 that.

4 Will that take care of it, Ms. Peace?

5 MR. LaTANNER: Oh, for clarification, are we
6 capping it at 5.5 or just come back to the Board?

7 BOARD MEMBER JONES: No, we're not capping. My
8 motion doesn't cap it. It just notifies.

9 CHAIRPERSON MOULTON-PATTERSON: Notifies.

10 Does that answer your question, Ms. Peace?

11 BOARD MEMBER PEACE: Yes.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
13 motion on the floor by Mr. Jones, seconded by Mr. Medina,
14 to approve Resolution 2003-417 revised.

15 Please call the roll.

16 SECRETARY WADDELL: Jones?

17 BOARD MEMBER JONES: Aye.

18 SECRETARY WADDELL: Medina?

19 VICE CHAIRPERSON MEDINA: Aye.

20 SECRETARY WADDELL: Paparian?

21 BOARD MEMBER PAPARIAN: Aye.

22 SECRETARY WADDELL: Peace?

23 BOARD MEMBER PEACE: Aye.

24 SECRETARY WADDELL: Washington?

25 BOARD MEMBER WASHINGTON: Aye.

1 SECRETARY WADDELL: Moulton-Patterson?

2 CHAIRPERSON MOULTON-PATTERSON: Aye.

3 Okay. Number 12.

4 BOARD MEMBER PEACE: Could I ask a question
5 before we get started on the next item?

6 CHAIRPERSON MOULTON-PATTERSON: Yes.

7 BOARD MEMBER PEACE: I was wondering, if I can
8 ask staff this: Is there any requirement at all that loan
9 recipients somehow indicate to their customers that they
10 receive financial assistance from the Board? It seems to
11 me like anybody who receives any sort of help from the
12 Board, whether it's grants -- they have grants or loans or
13 sponsorships should be displaying in some way that, you
14 know, they're being helped out by the Board.

15 MR. LaTANNER: You mean that the applicants are
16 being helped out by the Board?

17 BOARD MEMBER PEACE: Yes.

18 Is there anything that says they, you know --
19 have they got a sign or a placard that says, you know,
20 "This" business made possible --

21 MR. LaTANNER: We notify Public Affairs. And in
22 the past we had done a press release. Although we stopped
23 the press releases, not wanting to advertise the amount of
24 money that we're lending out. Generally what we tried to
25 do, and before this big budget crunch, was go out and do a

1 press release at this business site in terms of some local
2 media, and then that generally did help them get a few
3 more customers.

4 BOARD MEMBER PEACE: But there's nothing that
5 says they have to display anything at their place of
6 business that says that the Board --

7 MR. LaTANNER: No, there's no requirement that
8 they put any sign up. It's not like a WRAP award where
9 they put a sign up that they actually got a loan from us.

10 BOARD MEMBER PEACE: Okay. Thank you.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.
12 We move on to Item 12.

13 MR. ORR: Yes. Thank you, Madam Chair.

14 Item 12 is this month's installment of the Rigid
15 Plastic Packaging Container Compliance Agreement.

16 And Jan Howard will present the item.

17 MS. HOWARD: Good morning.

18 Can you hear me now?

19 Good morning, Madam Chair and Board members. Jan
20 Howard with the Plastic Recycling Technology Section.

21 I would like to begin this morning by providing
22 the Board the status of Armstrong Wood Products and Kmart
23 Corporation.

24 Armstrong Wood Products manufactures adhesives
25 and sealants and provided documentation to staff to

1 substantiate that it's in compliance. Armstrong uses 25
2 percent post-consumer resin in one of its regulated
3 containers and has source reduced the amount of resin it
4 uses in its remaining regulated containers by more than 10
5 percent based on corporate averaging.

6 Staff has determined that Armstrong has met the
7 terms and conditions of its compliance agreement and
8 demonstrated compliance for a six-month period in
9 accordance with Option 1.

10 Kmart Corporation. Prior to executing its
11 compliance agreement, Kmart submitted certification for a
12 compliance year, 2002, for its house brand automotive
13 products packaged in regulated containers and was
14 determined to be in compliance by source reducing more
15 than 10 percent based on corporate averaging.

16 Subsequent to receiving the certification it was
17 brought to staff's attention that Kmart had a number of
18 household products under its house brand name of American
19 Fair packaged in regulated containers. Staff notified
20 Kmart that it needed to clarify its disposition of its
21 American Fair products under letter dated July 10th, 2003.

22 Staff determined that Kmart discontinued its
23 American Fair product line in 2002, but reintroduced it in
24 the spring of 2003.

25 Staff believes that Kmart should be allowed until

1 September 11th, 2003, to submit certification for its
2 American Fair product line that was reintroduced in 2003.

3 If documentation is received by September 11th,
4 staff will bring Kmart back to the Board in a future item
5 for completion of its compliance certification. If
6 certification is not received by September 11th, 2003,
7 staff recommends the Board approve Option 3 as outlined in
8 the agenda item and direct staff to schedule a public
9 hearing to assess fines and penalties.

10 Having said that, staff is presenting seven
11 companies this month and requests the Board approve the
12 companies identified under Options 1 and 2, including
13 Armstrong Wood Products, and include Kmart under Option 3,
14 and adopt Resolutions 2003-419 through 2003-425.

15 This concludes my presentation. And I'd be happy
16 to answer questions.

17 CHAIRPERSON MOULTON-PATTERSON: All right. I see
18 no questions at this time.

19 We do have a speaker. Randy Pollack.

20 MR. POLLACK: Madam Chair, members of the Board,
21 Randy Pollack on behalf of the Kmart Corporation.

22 I just wanted to give you just a quick history of
23 what happened with Kmart and just give you a quick update
24 of where we're going.

25 As Jan indicated, that Kmart initially had this

1 American Fair line of products that they discontinued in
2 2001. When we met with the Board, we decided to review
3 all the products that Kmart had on the shelves for the
4 year 2002. And in the forms that you probably had before
5 you, it demonstrates that Kmart is in compliance with
6 California law for 2002 on their line of products. As a
7 matter of fact they exceed the 10-percent source
8 reduction.

9 The question that has come to the Board now is
10 that beginning in April of this year Kmart decided to
11 reinstitute their house brand. And they had a vendor
12 supply these products to their stores under the vendor's
13 own name. And then there was a contract termination among
14 the companies. So Kmart had to speed up initially to get
15 products into the store, and have been introducing these
16 products over the past couple months.

17 One of the problems that we have right there is
18 that Kmart is probably going to continue to introduce
19 products over the next several months. When you look at
20 the regulations, it has been contemplated that when a new
21 product is introduced into a store, that there's usually
22 the remainder of the year and next year before compliance
23 is met, because this gives an opportunity for the stores
24 to get all their products in there to look at all the
25 products there and possibly do corporate averaging.

1 The other issue that we're dealing with now is --
2 that I just want to make clear, is that for each item
3 we're introducing it doesn't mean that each item has to
4 meet California law. What we have to do is take a
5 corporate average of all the products that we currently
6 have in our store that have already exceeded the
7 10-percent source reduction, average it with the products
8 that we have going into our store now to see what the
9 totals are.

10 So that's where we are right now. We're getting
11 information from the companies, but just taking a little
12 bit of time to try and get all this information about the
13 new products that are coming out. And we'll continue to
14 work with the Board to resolve the situation.

15 Thank you.

16 CHAIRPERSON MOULTON-PATTERSON: Thank you very
17 much.

18 Any questions or a motion?

19 BOARD MEMBER JONES: Madam Chair?

20 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

21 BOARD MEMBER JONES: I'll move adoption of
22 Resolutions No. 2003-419, 420, 21, 22, 23, 24 and 25.

23 CHAIRPERSON MOULTON-PATTERSON: I'll second.

24 Okay. We have a motion by Mr. Jones, seconded by
25 Moulton-Patterson, to approve the resolutions as read.

1 Please call the roll.

2 SECRETARY WADDELL: Jones.

3 BOARD MEMBER JONES: Aye.

4 SECRETARY WADDELL: Medina?

5 VICE CHAIRPERSON MEDINA: Aye.

6 SECRETARY WADDELL: Paparian?

7 BOARD MEMBER PAPARIAN: Aye.

8 SECRETARY WADDELL: Peace?

9 BOARD MEMBER PEACE: Aye.

10 SECRETARY WADDELL: Washington?

11 BOARD MEMBER WASHINGTON: Aye.

12 SECRETARY WADDELL: Moulton-Patterson?

13 CHAIRPERSON MOULTON-PATTERSON: Aye.

14 Okay. I think we'll take a short 10-minute break
15 right now. And we have two items when we come back.

16 (Thereupon a recess was taken.)

17 CHAIRPERSON MOULTON-PATTERSON: Okay. I'd like
18 to get started again.

19 Ms. Peace, do you have any ex partes?

20 BOARD MEMBER PEACE: No, I have none, Madam
21 Chair.

22 CHAIRPERSON MOULTON-PATTERSON: Okay. I have
23 none.

24 Mr. Medina?

25 VICE CHAIRPERSON MEDINA: None to report.

1 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

2 BOARD MEMBER PAPARIAN: None.

3 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington?

4 BOARD MEMBER WASHINGTON: I have none.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. That
6 brings us to our last two agenda items. We have No. 14 on
7 the plastic trash bag manufactures and wholesalers
8 compliance with the Plastic Trash Bag Law for the 2002
9 reporting period. That's item 14.

10 And then I'm going to be referring to Mr. Block
11 on Item 34.

12 So let's go on with Item 14 at this time.

13 MR. ORR: Thank you, Madam Chair, Board members.

14 Item 14 is a consideration of plastic trash bag
15 manufacturers and wholesalers compliance with the Plastic
16 Trash Bag Law for the 2002 reporting period.

17 I'd like to start by indicating that we actually
18 did an upgrade of the mailing list that's used for the
19 certification through marketplace surveys, internet
20 searches, and referrals from the Department of General
21 Services for plastic trash bag manufacturers and
22 wholesalers.

23 By way of background, the Board is required to
24 annually publish a compliance list, the net effect of
25 which is that noncompliant companies cannot contract with

1 the State. And they remain ineligible until the Board
2 determines that they are now in compliance with the law.

3 Other state agencies also rely on the Board's
4 list, both for putting out their own trash bag contracts
5 by large departments like the Department of General
6 Services and individual correctional institutions and for
7 also determining which trash bags they can purchase
8 through delegated purchasing.

9 At the Board's committee meeting the Committee
10 voted 3-0 to adopt the lists of manufacturers and
11 wholesalers that are found in Attachments 1, 3, and 4.
12 And the Committee further voted to continue the list of
13 the exemption request companies that are found in
14 Attachment 2 until next month.

15 Meetings with the companies that have requested
16 exemptions are being scheduled for next week.

17 Staff recommends that the Board approve
18 Resolution 2003-394, Revision 2.

19 And I'll available or Mike Leao can answer any
20 questions.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you.

22 Mr. Paparian.

23 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

24 I'm the one who asked for this agenda item to
25 come off of the consent agenda. I'm not a member of that

1 Committee, but the issue's very important to me.

2 I have no problem with the direction on the -- I
3 think it was 1, 3, and 4 or 1, 2, and 4, the ones that
4 aren't seeking the self-exemption.

5 But I felt that by having the agenda item come
6 before us, it would give those of us not on the Committee
7 an opportunity to at least chat about this issue and raise
8 some of the questions that we'd like addressed as the item
9 moves forward.

10 I have a couple of questions. I'm not looking
11 necessarily for answers to these questions today. But
12 there are things that I would like looked into as this
13 item goes forward.

14 Now, this is one of the few laws that we have
15 that has some very significant teeth in it. And the
16 significant teeth in this law is that if you don't comply
17 with it, not only can't you sell plastic trash bags to the
18 State of California, but you're not supposed to be able to
19 sell any product to the State of California. And for, you
20 know, some of the companies that's a pretty significant
21 impact in that they have many product lines beyond just
22 the trash bags.

23 I'm concerned that if we allow a self-exemption
24 at zero percent, as at least one of the manufacturers has
25 suggested, that this would set a precedent that would

1 allow virtually any manufacturer who has zero percent
2 recycled content to come forward and claim the same
3 exemption.

4 At that point the law becomes meaningless because
5 there's no -- everybody could get exempted simply by
6 claiming the zero percent. So I want to know a little bit
7 about why, if we allow one company in at zero percent,
8 that wouldn't be the precedent for all companies to come
9 in at zero percent.

10 I'm also looking at the four manufacturers that
11 are seeking self-exemptions. One's at zero percent, one's
12 at one percent, one's at 4.1 percent, and one is at 7.5
13 percent recycled material.

14 It seems odd to me that some companies are able
15 to get as high as 7.5 percent, yet other companies are
16 really unable to find any of the material. It seems that
17 there must be material in the marketplace if some
18 companies are able to get up to 7.5 percent, or in the
19 case of the compliant manufacturers, much higher than
20 that.

21 I don't know -- I guess the representative of the
22 Plastics Trade Association is gone. But I'm wondering if
23 there's anything that they can do to move forward as
24 they've suggested to us in the past in helping
25 facilitating the markets for recycled materials. I know

1 that there are some markets that are perhaps untapped,
2 like -- you know, just off the top of my head, like those
3 little plastic bags that get put over our dry-cleaning. I
4 think that that is the type of material that could be used
5 in plastic trash bags. Yet I don't think there's any type
6 of collection mechanism out there for that.

7 The part of the law that I mentioned about
8 prohibition on state purchases of products from
9 noncompliant manufacturers, I'm wondering if there is any
10 way we could do something a little bit different with
11 those we allow through under this self-exemption and I
12 wonder if that could be that we wouldn't allow trash bags
13 sold by these companies to be sold to the State of
14 California, if there's any way we could work with General
15 Services on something like that. So that at least the
16 State was purchasing only those trash bags that are
17 compliant.

18 So those are some of the issues that I wanted to
19 lay out there. And I'll also look forward to, you know,
20 hearing more during this next month about how reasonable
21 the efforts were made on behalf of those manufacturers to
22 really attain the law and whether they, you know, not only
23 did everything that they could do, but that we also have a
24 mechanism to determine whether they are truly doing what
25 they need to do to qualify for the self-exemption.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you for
2 your comments, Mr. Paparian.

3 We do have a speaker. Scott Smithline,
4 Californians Against Waste.

5 Good morning.

6 MR. SMITHLINE: Good morning, Madam Chair, Board
7 members. My name is Scott Smithline, Californians Against
8 Waste. Thank you for the opportunity to talk about the
9 Plastic Trash Bag Law today.

10 Californians Against Waste supports this process.
11 We supported this bill, and we think -- we continue to
12 think it's important for the state government to take a
13 leadership role in developing the market for recycled
14 plastics in the state.

15 My comments are very brief. Quite simple, this
16 law is about developing the markets for plastic --
17 recycled plastic. To facilitate that goal, we think the
18 Board should provide to the Department of General
19 Services -- can you hear me okay? -- yeah, okay -- and
20 other state agencies the names of the companies that are
21 producing recycled plastic trash bags with the greatest
22 content of recycled material. We think that would
23 further -- directly further the intent of this
24 legislation.

25 And in addition, while we understand that the

1 self-exempting companies are technically eligible for
2 contracting with the State, we would urge the Board to
3 make it a priority to encourage state agencies to contract
4 with the manufacturers and wholesalers who are actually
5 producing plastic trash bags, again, with recycled
6 content, as that was the intent of this legislation.

7 We feel that these steps will help achieve that
8 goal, which is, after all, acknowledged on the face of the
9 law where it says essentially that this is about
10 encouraging California's post-consumer market development.

11 Thank you very much.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you for
13 your comments.

14 Mr. Medina.

15 VICE CHAIRPERSON MEDINA: Thank you, Madam Chair.
16 I just wanted to respond to Mr. Paparian that the cleaners
17 that I've been to, they have receptacles set up to collect
18 old hangers and the plastic covers over your clothes.
19 I've been to a number of them and I've seen those at the
20 front of the store.

21 BOARD MEMBER PAPARIAN: Maybe I'm going to the
22 wrong cleaners. I'll have to get that list from you.

23 BOARD MEMBER JONES: Madam Chair?

24 CHAIRPERSON MOULTON-PATTERSON: Yeah, that's
25 good. We ought to certify cleaners that do that.

1 Mr. Jones.

2 BOARD MEMBER JONES: Thanks, Madam Chair.

3 I appreciate that this came off of consent. And
4 I appreciate that the other two members of the Committee
5 agreed with my motion to pull the self-exemption out of
6 this resolution. I think it's -- I think the testimony
7 that we heard that day is frightening from the standpoint
8 that we did get some testimony that said, "Well, we looked
9 in 2001 and we didn't see any, so we didn't even bother in
10 2002."

11 I think that's problematic and one of the biggest
12 reasons why we should not allow this self-exemption to
13 just be considered a check-the-box category for the people
14 that supply the majority of plastic trash bags in the
15 State of California.

16 It's very clear. All the members got a copy of
17 the process and the information that's needed on the
18 exemption requests. And I think it's pretty reasonable,
19 you know. "How many post-consumer resin suppliers did you
20 contact? How many did you provide your specifications to?
21 How many provided samples for testing? How many samples
22 met your spec? If none, how many suppliers did you
23 follow-up with?"

24 I think that when we look at these four
25 companies, there was an awful lot of -- I'm not sure that

1 all those boxes actually happened. So I think that this
2 month that Mike Leason and his people are going to make a
3 deal with these four manufacturers should be used not only
4 to find out to what extent they did their due diligence,
5 but it almost sounds like -- and I want to make it
6 clear -- this program has standards set by this Board.
7 They were set at the request of this industry.

8 Is that pretty correct, Mr. Orr?

9 MR. ORR: (Mr. Orr nods head.)

10 BOARD MEMBER JONES: If, in fact, they are too
11 broad, then that needs to be part of the description so
12 that suppliers of resin -- of post-consumer pellets know
13 what they need to do to be able to move their marketplace.

14 I think it's real simple to just say plastic
15 lumber is taking up all of the plastic. I think you can
16 find a lot of my guys that -- and women that are
17 collecting this material that are having a hard time
18 finding homes for it.

19 So I would hope that this is a thorough
20 discussion with these manufacturers. I agree that -- you
21 know, if the law says they not only get listed to preclude
22 selling their trash bags, but the other products that are
23 in their line, I have no problem with putting them on the
24 list, you know. We don't have a whole lot of outlets for
25 material, and we better take advantage of the ones that we

1 do.

2 So I would hope that this exemption request
3 criteria, that those -- those are really a lot of what the
4 focused discussion is about to get the evidence that they
5 did do some due diligence.

6 And, secondly, that we find out if there are
7 areas that we have to tighten up specifications, that we
8 do with the concurrence of these manufacturers. If it's
9 broad enough that it keeps everybody in, then that's fine.
10 If there needs to be some tightening, those manufacturers
11 need to let the suppliers know so that they can put a
12 product out that will fill their needs, if that makes
13 sense.

14 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
15 Jones.

16 BOARD MEMBER JONES: Madam Chair?

17 CHAIRPERSON MOULTON-PATTERSON: Yes.

18 BOARD MEMBER JONES: If there's no other
19 questions --

20 CHAIRPERSON MOULTON-PATTERSON: I see none.

21 BOARD MEMBER JONES: I'd like to move adoption of
22 Resolution 2003-394, Revision 2, consideration of plastic
23 trash bag manufacturers and wholesalers compliance with
24 the Plastic Trash Bag Law for 2002 reporting period,
25 Public Resources Code Section 42997(b), which included

1 categories 1, 3, and 4.

2 VICE CHAIRPERSON MEDINA: Second.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
4 motion by Mr. Jones, seconded by Mr. Medina, to approve
5 Resolution 2003-394, Revision 2.

6 Seeing no objection, we'll substitute the
7 previous roll call.

8 That takes us to Item 34. And I'd like to call
9 on Mr. Block, because I believe this came to us late as an
10 emergency. Is that right?

11 ACTING CHIEF COUNSEL BLOCK: That's correct.

12 EXECUTIVE DIRECTOR LEARY: Test.

13 ACTING CHIEF COUNSEL BLOCK: There we go. Oh,
14 much better. A few technical difficulties.

15 Thank you, Madam Chair, Board members.

16 And I'll just beg your indulgence here for a
17 little bit of procedural things that we need to take care
18 of before Mr. Lee moves forward with his presentation.

19 As you mentioned, Item No. 34 was added on Friday
20 to the agenda. And I just want to talk about the process
21 that would allow the Board to go ahead and listen to this
22 item and potentially take action on it.

23 Government Code Section 11125.3 provides that a
24 State body may take action on an item not appearing on its
25 posted agenda upon a determination by two-thirds vote that

1 there exists a need to take immediate action and the need
2 for action came to the attention of the State body
3 subsequent to the agenda being posted.

4 The issue involved in this item came to Board
5 staff's attention in a letter dated last Wednesday, after
6 the posting of the agenda. And the issue of whether or
7 not the Board will be involved in this matter needs to be
8 decided immediately because school is scheduled to start
9 up in about two weeks.

10 After determining that the Board might want to
11 consider this item, it was posted on the Board's agenda on
12 Friday, as I mentioned. And notice was provided to the
13 media by our Public Affairs Office that day, more than 48
14 hours in advance of the meeting.

15 So just in accordance with the process that I've
16 laid out, before staff begins its presentation of the
17 item, the Board needs to vote on whether or not to
18 consider this item. And I just wanted to remind you that
19 a vote -- an affirmative vote to hear the item is not a
20 vote on the underlying matter before you. It's simply to
21 go ahead and listen to the presentation and consider
22 whether to take action.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
24 Block.

25 Mr. Medina.

1 VICE CHAIRPERSON MEDINA: Yes, Madam Chair. I
2 would like to see a copy of the letter. I'd like to see a
3 copy of the request that was made.

4 CHAIRPERSON MOULTON-PATTERSON: While that's
5 being brought forward, do we have a motion to hear the
6 item on an emergency basis?

7 BOARD MEMBER PAPARIAN: I'll so move.

8 CHAIRPERSON MOULTON-PATTERSON: Okay. You'll
9 move to --

10 BOARD MEMBER PAPARIAN: -- that we hear the --

11 CHAIRPERSON MOULTON-PATTERSON: And so we have a
12 motion by Mr. Paparian.

13 BOARD MEMBER JONES: Second.

14 CHAIRPERSON MOULTON-PATTERSON: And seconded by
15 Mr. Jones to go ahead and hear this item.

16 Please call the roll.

17 SECRETARY WADDELL: Jones?

18 BOARD MEMBER JONES: Aye.

19 SECRETARY WADDELL: Medina?

20 VICE CHAIRPERSON MEDINA: Aye.

21 And is there any reason why all the Board members
22 couldn't receive a copy of the letter?

23 CHAIRPERSON MOULTON-PATTERSON: You did.

24 VICE CHAIRPERSON MEDINA: Did we?

25 CHAIRPERSON MOULTON-PATTERSON: Yeah. It was

1 distributed by my office.

2 VICE CHAIRPERSON MEDINA: Thank you.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you. It's
4 just that it came in late and maybe you haven't seen it.

5 Okay. So continue with the roll call.

6 SECRETARY WADDELL: Medina?

7 VICE CHAIRPERSON MEDINA: Aye.

8 SECRETARY WADDELL: Paparian?

9 BOARD MEMBER PAPARIAN: Aye.

10 SECRETARY WADDELL: Peace?

11 BOARD MEMBER PEACE: Aye.

12 SECRETARY WADDELL: Washington?

13 CHAIRPERSON MOULTON-PATTERSON: This is just
14 whether we should hear the item.

15 BOARD MEMBER WASHINGTON: Aye.

16 SECRETARY WADDELL: Moulton-Patterson?

17 CHAIRPERSON MOULTON-PATTERSON: Aye.

18 Okay. Now we'll go into the item.

19 ACTING CHIEF COUNSEL BLOCK: And, Madam Chair,
20 one more thing just before Mr. Lee begins his
21 presentation.

22 It's just been brought to my attention that
23 the -- I believe a copy of a resolution has been handed
24 out to all the Board members.

25 CHAIRPERSON MOULTON-PATTERSON: Yes, we have

1 that.

2 ACTING CHIEF COUNSEL BLOCK: The title on the top
3 of that resolution, inadvertently it doesn't exactly match
4 the title that was added to the Board agenda on Friday.
5 So should the Board go ahead and take action on that
6 resolution, we'll make sure to revise the title so that
7 they match. Just a little housekeeping.

8 CHAIRPERSON MOULTON-PATTERSON: So the correct
9 title would be "Consideration of options in response to
10 request of Bennett Valley Union School District for
11 assistance regarding damaged playground surface," is that
12 correct?

13 ACTING CHIEF COUNSEL BLOCK: That's correct.

14 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr. Dier.

15 MR. DIER: Madam Chair, Don Dier with the Waste
16 Tire Program in the Special Waste Division.

17 (Thereupon an overhead presentation was
18 Presented as follows.)

19 MR. DIER: This item concerns the Yulupa
20 Elementary School. As indicated, a letter was received
21 last week from the superintendent. It was -- actually
22 several letters were sent. I received a letter, I believe
23 the Chair received a letter, and several staff received a
24 letter. The letter that I provided Mr. Medina was the one
25 that came to me. But I believe several other folks have

1 received it.

2 A little of the history.

3 --o0o--

4 MR. DIER: This site received -- about five years
5 ago it received some tire chips from a Texas manufacturer
6 as a part of a demonstration project. These tire chips
7 are not whole tire, but they're from the side wall. And
8 that's fairly important, as we'll discuss a little later,
9 because the side walls are free of the metal that's found
10 in the radial portions of the tire.

11 The district accepted the offer as a show of
12 value of the recycled material. And the material was
13 placed and the demonstration proceeded.

14 A week ago yesterday some vandals lit the tire
15 chips in the playground and the fire ensued. The fire was
16 put out fairly quickly, within about an hour. However,
17 there was a great amount of smoke and remaining stench
18 that exists at the playground and in the school yard.

19 On Monday, August 4th, the Sonoma County Local
20 Enforcement Agency contacted Board staff to advise us of
21 the situation and ask for some guidance.

22 --o0o--

23 MR. DIER: The following day, on August 5th, the
24 Board staff visited the site to do some initial site
25 investigation, at which time staff noted that a very

1 pungent odor existed from the residual contamination.

2 And then the following day, August 6th, everyone
3 received a letter from the Bennett Valley Union School
4 District requesting assistance and funding from the Board.

5 --o0o--

6 MR. DIER: Just some observations that we'd like
7 to make in this presentation. That is, that fire
8 residuals may pose an imminent threat to the students and
9 the facility. As noted in the first slide, school will
10 resume on September 2nd. And so if the Board should
11 choose to do something, it would be our goal to act and
12 remove the material prior to the students returning to
13 school.

14 The playground is no longer usable. And, again,
15 the strong chemical odor is present around the structure.

16 Prior analysis of whole tire fires, you know, has
17 shown that the material -- this is from our Westley and
18 Tracy experiences -- has been found to be hazardous. But,
19 again, that's primarily due to zinc, possibly resulting
20 from the metal in the tires; and that these chips are
21 supposedly metal free. But, again, that's something that
22 we would like to take a look at.

23 --o0o--

24 MR. DIER: These are some photographs of the
25 site. The darkened area in the center is the part that

1 was consumed by the fire. There is a nearby home within
2 about 150 feet, and the odor is very noticeable.

3 --o0o--

4 MR. DIER: And here is an outline of the fire
5 area.

6 --o0o--

7 MR. DIER: Approximately 9 of the 16 tons of tire
8 chips were involved in the fire. The tires were at a
9 depth of 3 to 6 inches and it was over sand. We wouldn't
10 know until we got in there, but -- whoever gets in
11 there -- but the contamination may exceed two feet below
12 the ground surface.

13 Again, the fire did not last very long. Our
14 experience is with large fires. This is a fairly small
15 quick fire. But, again, it involves tire material. So it
16 would be very interesting to find out what exactly
17 happened and what the effect was from the fire.

18 --o0o--

19 MR. DIER: Should the Board decide to act on this
20 request, staff would recommend that we approach this as a
21 research project to address data gaps that exist. Our
22 experience with tire fires is with old tires primarily,
23 and that results in a certain type of data.

24 We don't have experience or information with
25 regard to what happens when this type of application of

1 tire chips becomes involved in a fire. And so staff is
2 quite interested in understanding that, and perhaps -- you
3 know, not necessarily preventing -- you can't prevent a
4 vandal from starting the fire, but we would certainly be
5 better equipped and better informed as to how to deal with
6 the matter should those types of fires occur in the
7 future.

8 We have in the audience the LEA representative
9 from Sonoma County, Bob Swift, and also Dr. Sue Field, who
10 is the Superintendent of the Bennett Valley Union School
11 District. They're here to answer any questions you may
12 have.

13 As Elliot indicated, we have drafted a resolution
14 for the Board's consideration if you choose to take an
15 action. And that resolution proposes that the Board
16 utilize its existing engineering and environmental
17 services contractor to undertake this research effort.

18 It would be a comprehensive research effort, to
19 sample, to analyze the material, to remove the material,
20 and to make recommendations for future considerations, as
21 I mentioned, should these types of incidences occur in the
22 future.

23 With that, I'll call that the end of it and see
24 where you'd like to go with it.

25 Any questions?

1 CHAIRPERSON MOULTON-PATTERSON: What would be the
2 cost if we proceeded with this -- or approximately?

3 MR. DIER: Approximately -- we would estimate
4 that it could be, total -- because this is not just
5 removing the material. We're doing extensive analysis of
6 it and coming up with some recommendations on how future
7 events of this nature could be handled. So we're
8 estimating it could be up to a hundred thousand dollars.
9 Likely it would be less than that.

10 There may be involvement that -- we have been in
11 contact with the Department of Toxic Substances Control.
12 They may or may not be involved, depending on the nature
13 of the material. And if they are involved, we would have
14 to cover some of their oversight costs.

15 We would also possibly link this with an existing
16 contract with the Office of Environmental Health Hazard
17 Assessment because the data we would generate from this
18 then could be given to OEHHA for further analysis.

19 CHAIRPERSON MOULTON-PATTERSON: You know, I can
20 certainly see where this would be beneficial.

21 I do have one question on page 2 of the
22 resolution, the 4th "Whereas" down, the last line, "...to
23 develop a protocol to use in the cleanup of sites similar
24 to the Yulupa Elementary School site." Would that
25 indicate that we would be doing these cleanups? I mean I

1 wouldn't want to put us in that position.

2 MR. DIER: No, in fact we're very aware of that
3 concern, and that is a concern of ours also. And this
4 would merely be providing guidance to parties in the
5 future should these occur. This does not obligate us in
6 any way to doing this -- by doing it as a research
7 project, I would view this as a one-time effort.

8 CHAIRPERSON MOULTON-PATTERSON: Maybe if it was
9 added "to develop a protocol for districts to use" or
10 something. I mean it sounds the way it's written that
11 it's a protocol for us. And I just don't think we'd want
12 to get in to that business.

13 Oh, Mr. Jones, your light's on. Go ahead.

14 BOARD MEMBER JONES: Madam Chair, I agree with
15 you. Maybe we ought to -- maybe we could say develop it
16 for the Board to distribute to, you know, local school
17 districts or something. Would that work?

18 CHAIRPERSON MOULTON-PATTERSON: Or just --

19 BOARD MEMBER JONES: Well, you've got to have the
20 protocol. You have to have a protocol.

21 I think it's -- Madam Chair?

22 CHAIRPERSON MOULTON-PATTERSON: Yes.

23 BOARD MEMBER JONES: I think it's important that
24 there's a protocol so that you can -- as you're removing
25 this material and you're seeing certain things, whatever

1 they -- you don't want the next person that has to do this
2 to have to experience all this as new information. So the
3 protocol could be as simple as how much material to take
4 out at a time; you know, do you use a bucket, do you -- I
5 mean do you scrape it, do you do this? And it'll give
6 people in the future a road map to cleaning up these kinds
7 of things. I think it's important to have protocols in
8 there.

9 BOARD MEMBER PEACE: As long as it doesn't
10 indicate that we'll be the ones cleaning up.

11 BOARD MEMBER JONES: No. But I think if you say
12 that we're going to provide the information -- all
13 protocol is an information -- and make it available, you
14 know, as another tool.

15 CHAIRPERSON MOULTON-PATTERSON: Yeah, as long as
16 we put some words in there, "protocol for districts" or
17 for --

18 BOARD MEMBER JONES: Information exchange.

19 CHAIRPERSON MOULTON-PATTERSON: -- so it doesn't
20 indicate that we're going to be doing this. I think, you
21 know, this would be, you know, important to get the school
22 cleaned up before school starts. I think we could learn a
23 lot from it. But I certainly wouldn't want to be saying
24 anything that we're going to be going throughout the state
25 and doing this.

1 BOARD MEMBER JONES: Madam Chair?

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

3 BOARD MEMBER JONES: How about if we said that
4 the protocol for use in cleaning up similar sites as an
5 information tool for future reference or for -- for school
6 districts to use or -- you know.

7 CHAIRPERSON MOULTON-PATTERSON: Yeah, as long as
8 we put something in there --

9 BOARD MEMBER JONES: Put it in as an information
10 exchange.

11 CHAIRPERSON MOULTON-PATTERSON: I would be more
12 comfortable --

13 BOARD MEMBER PEACE: Should we ask legal how that
14 should be so we're not setting a precedent here?

15 CHAIRPERSON MOULTON-PATTERSON: Good idea.

16 ACTING CHIEF COUNSEL BLOCK: Any of the
17 particular languages that you use would work. I think
18 there's certainly a lot on the record already indicating
19 that you were trying to not set a precedent.

20 I hesitate to give you one more option to throw
21 in there. But let me just go ahead and say -- for adding
22 just a couple words, you could say, "to develop a protocol
23 to distribute for others to use in the cleanup of sites
24 similar." I think that's similar to what you've been
25 saying. Add about three or four words. That way it makes

1 it clear that we're developing a protocol for others
2 rather than for the Board's end use.

3 CHAIRPERSON MOULTON-PATTERSON: Okay. As long as
4 some words could be added, a protocol for research only, a
5 one-time only demonstration project, or something, I think
6 that would be the intent of the Board.

7 Do we have a motion to --

8 BOARD MEMBER JONES: Madam Chair?

9 CHAIRPERSON MOULTON-PATTERSON: Or is there more
10 discussion? I don't see -- oh, Mr. Paparian. Excuse me.
11 You had your light on.

12 BOARD MEMBER PAPARIAN: Yeah, just briefly. I'm
13 comfortable with the direction that we seem to be going in
14 here.

15 But kind of a broader issue that we may want to
16 come back with an agenda item at some point, which is:
17 When do we clean up sites generally and when don't we
18 clean up sites? Where do we take responsibility and where
19 don't we take responsibility? Not just on sites related
20 to tires, but across the Board. You know, it seems like
21 we've been getting in to a number of gray areas over the
22 last year or two. And I think that at least presenting to
23 the Board what our policy is and where the policy might be
24 lacking might be fruitful at some point in the next few
25 months.

1 CHAIRPERSON MOULTON-PATTERSON: I think that's a
2 good suggestion, and I'd like to see that.

3 BOARD MEMBER PEACE: Will we still be able to do
4 any sort of cost recovery? I've heard that this is -- you
5 know, since it's vandalism, apparently they might have
6 found the kid that did it. Is there some way we can still
7 go after cost recovery? Are we going to still try to do
8 that?

9 MR. DIER: This would be -- we're not obligated
10 on cost recovery. This would not be done under our
11 remediation contract.

12 If the Board wished -- I believe the
13 superintendent might be able to address that point with
14 regard to what they're doing with the vandal.

15 CHAIRPERSON MOULTON-PATTERSON: Well, certainly
16 if they are caught, it seems like to me, if they're
17 minors, their parents should be responsible and they
18 should have to pay back the money. But I don't know that
19 we have to put that in the resolution. But Ms. -- the
20 superintendent -- I'm sorry -- Ms. Field, would you want
21 to comment real quickly since you're here?

22 Thank you for being here.

23 DR. FIELD: Thank you so much for hearing the
24 item.

25 Essentially the way -- the State limits the

1 amount of liability that a parent has over the willful
2 misconduct of their child and the expense related to that.

3 And so they establish a rate every year, which
4 right now is right around \$12,000, that we can charge the
5 parent. Now, getting the parent to pay it is another
6 matter.

7 CHAIRPERSON MOULTON-PATTERSON: Certainly. I
8 understand.

9 DR. FIELD: But obviously it's a lot less than
10 this project would be. However, it does help. It does
11 help. And it could help. There's still going to be some
12 expense to the school district that is going to be
13 difficult for us in restoring the site, you know, in some
14 way that we all agree is the proper way to go, like
15 whether we concrete the area after the soils are cleaned
16 or whatever. But that will still be expensive. So that
17 could contribute toward that.

18 Another issue for us is what our insurance
19 company will or won't do. And our insurance company was
20 out last week. And what they're telling us is that the
21 play structure, which is a relatively minor expense, would
22 be covered, but the playground surfacing material is
23 likely not covered, and neither is any kind of relating
24 pollution covered.

25 So they think there could be a possibility of

1 some relief in some gray area within that, and they were
2 studying that and they were not able to get back to me in
3 time for today. But it looks less than hopeful. We're a
4 county self insurer, a joint powers authority, and so they
5 look after the interests of the 40 districts in Sonoma
6 County pretty fervently.

7 So whether or not we could get a whole lot more
8 money out of Redwood Empire Schools Insurance Group, I
9 don't know how much money we'll be able to get out.

10 CHAIRPERSON MOULTON-PATTERSON: I guess I feel
11 that, you know, if there was money recovered, that it
12 should go to this Board because we're not really
13 responsible for this.

14 And, Mr. Washington, you had on your light.

15 Thank you.

16 BOARD MEMBER WASHINGTON: Yeah, for Dr. Field.

17 Did you seek any federal funds to help with this
18 project?

19 DR. FIELD: Not at --

20 BOARD MEMBER WASHINGTON: Just looking at the
21 dates of Sunday, August 3rd, it seems that the fire
22 started, it was put out, and then went straight to the
23 Integrated Waste Board. And that was probably through the
24 direction of the LEA, "Go to the Board, see if you can get
25 some money from them."

1 Were there any other avenues that you guys sought
2 to get some resources for this?

3 DR. FIELD: Yes. We have been in contact with an
4 environmental consultant in Sonoma County. And he sent
5 somebody out to look at it. And they're supposed to get
6 back to us with their estimates.

7 And, yes, we have some Plan B's in the works.
8 But, no, we have not sought federal funds yet at this
9 point, and I wasn't aware of any yet. It's only been a
10 week and two days since the fire. And we've been working
11 pretty hard to figure out what resources we have. We've
12 worked with your great staff. You have a terrific staff.

13 BOARD MEMBER WASHINGTON: Then I guess -- yeah,
14 and I appreciate it.

15 I guess, Madam Chair, that would be a concern for
16 me then. Why would we give money away when there might be
17 some federal funds available to assist with this project
18 before we do it?

19 CHAIRPERSON MOULTON-PATTERSON: I think your
20 point's well taken. But I think because of the timing,
21 you know, school's starting, we would have to jump in
22 there. But then if -- it should be pursued and we should
23 be paid back if they -- I think we could write in a
24 clause, couldn't we, legal, that --

25 BOARD MEMBER WASHINGTON: The feds are not going

1 to give you any money back.

2 CHAIRPERSON MOULTON-PATTERSON: Well, then --

3 ACTING CHIEF COUNSEL BLOCK: If I may. I mean
4 this is a little unusual from what we deal with because
5 we're looking at this as a research project as opposed to
6 a more standard cleanup. But we certainly could have an
7 MOU, a memorandum of understanding, with the district that
8 if there is any monies they either recover from the
9 arsonists or there's some other funding sources that could
10 go for that --

11 CHAIRPERSON MOULTON-PATTERSON: And we realize
12 that this is doubtful.

13 ACTING CHIEF COUNSEL BLOCK: -- we could have
14 some of the reimbursement. It's a little -- we'd have to
15 work out the details of that because it's a little --

16 CHAIRPERSON MOULTON-PATTERSON: Just so something
17 would be in there, I would be comfortable.

18 Mr. Jones, you had on your light.

19 BOARD MEMBER JONES: The vandal has been caught?

20 DR. FIELD: Well, we think so. The suspect is a
21 12-year-old serial arsonist that was caught lighting
22 another fire. And they are trying to link him to our
23 fire. I don't think that that link has been completely
24 established yet, but the police indicate that they're
25 hopeful.

1 BOARD MEMBER JONES: Is it -- I don't know how
2 they are in Sonoma. I mean maybe because of the kid's age
3 they wouldn't identify him. But I'm sure that this fire
4 made the paper?

5 DR. FIELD: No, it hasn't. Actually, I was kind
6 of surprised at that.

7 BOARD MEMBER JONES: Amazing.

8 DR. FIELD: But I'm sure the cleanup will.

9 BOARD MEMBER JONES: Yeah. Well, the research
10 project makes sense.

11 Madam chair?

12 CHAIRPERSON MOULTON-PATTERSON: Mr. Jones.

13 BOARD MEMBER JONES: I want to move adoption of
14 Resolution 2000 --

15 BOARD MEMBER PEACE: I still have a question.

16 CHAIRPERSON MOULTON-PATTERSON: Oh, Ms. Peace.
17 I'm sorry.

18 BOARD MEMBER PEACE: I just think we're going to
19 be treating this as an experiment -- we're going to be
20 doing experiments, a research project on this to see the
21 consequences of fires on playground sites containing the
22 metal-free tire shreds. Will we also be looking at just
23 crumb rubber and the other things that we use on
24 playgrounds, or is it just going to be dealing with
25 this -- just tire shreds? I mean are the tire shreds

1 different than the actual crumb rubber and other things
2 I've seen used on playground sites? I mean shouldn't we
3 know how everything is affected if there were a fire?

4 DEPUTY DIRECTOR LEE: Well, again, this project
5 is being fairly narrowly defined to, you know, basically
6 meet the circumstances that we're dealing with here. It
7 has to be defined as a research project because there's
8 limitations that we have under the statute, you know, if
9 we're dealing with it as a straight remediation.

10 Shreds are what burned here. And so I would
11 think that the -- you know, the research project will be
12 fairly limited to that particular aspect.

13 Don, anything else you want to add on that point?

14 MR. DIER: No, that's exactly what I was going to
15 respond.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
17 comment by Mr. Washington. And then we'll go back to Mr.
18 Jones, who's making a motion.

19 Mr. Washington.

20 BOARD MEMBER WASHINGTON: Madam Chair, I just
21 wanted to add that -- I want to make sure that it's clear
22 that this Board understands no matter what type of
23 language we put in here, we open Pandora's box to every
24 school district in the State of California. Everyone that
25 finds out that they received resources for this project

1 and they have a similar project -- a similar situation,
2 they'll come to this Board for costs.

3 And my understanding, that it's going to be very
4 difficult, if we call this a research project, to get cost
5 recovery from a research project. It's almost like
6 something we're putting forward to do. So I know for a
7 fact we won't receive any federal reimbursements for this
8 type of project because they don't reimburse for research
9 that you're potentially involving yourself. I just want
10 to make sure we know what we're getting ourselves into.

11 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
12 Washington.

13 Mr. Jones.

14 BOARD MEMBER JONES: Thanks, Madam Chair.

15 I'll move adoption of Resolution 2003-431,
16 consideration of options in response to requests of
17 Bennett Valley Union School District for assistance
18 regarding damaged playground surface, to include on the
19 4th "Whereas" on the second page after "protocol," "to
20 develop a technical protocol to use in clean-up sites
21 similar for" -- well, after "protocol" add "for other
22 jurisdictions to use in these kinds of situations."

23 And I would further say that this research
24 project, there should be an attempt by the Board staff to
25 contact U.S. EPA, to make them aware that we're going to

1 start this research project to find the damage caused by
2 this arson and to see if they want to partner with us to
3 come up with results that can be transparently sent out to
4 everybody because of the amount of shredded playgrounds in
5 the state. That's my motion.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a
7 motion, I'll second it, with all the testimony how the
8 Board feels that this is a one-time only.

9 And please call the roll.

10 ACTING CHIEF COUNSEL BLOCK: Madam Chair?

11 CHAIRPERSON MOULTON-PATTERSON: Mr. Block.

12 ACTING CHIEF COUNSEL BLOCK: I'm sorry. We don't
13 have a light down here.

14 Did you want this to include -- the resolution
15 doesn't talk about an MOU for any reimbursement or the
16 like. Did you want that to be included or not?

17 CHAIRPERSON MOULTON-PATTERSON: Well --

18 BOARD MEMBER JONES: Madam Chair.

19 CHAIRPERSON MOULTON-PATTERSON: Yeah, I'll yield
20 to the maker of the motion. But certainly from what I --
21 where I sit, if, you know, this -- if we got \$12,000, I
22 mean this is a lesson.

23 Mr. Jones.

24 BOARD MEMBER JONES: Madam Chair, I apologize.

25 I want to amend my motion to also include an MOU

1 with the school district that there be some kind of an
2 equitable distribution of any recovered funds between the
3 school board -- the school and this Board, because they're
4 going to have some expenses as well.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. I'll agree
6 with that as the second to the motion.

7 Please call the roll.

8 SECRETARY WADDELL: Jones?

9 BOARD MEMBER JONES: Aye.

10 SECRETARY WADDELL: Medina?

11 VICE CHAIRPERSON MEDINA: Aye.

12 SECRETARY WADDELL: Paparian?

13 BOARD MEMBER PAPARIAN: Aye.

14 SECRETARY WADDELL: Peace?

15 BOARD MEMBER PEACE: Aye.

16 SECRETARY WADDELL: Washington?

17 BOARD MEMBER WASHINGTON: Abstain.

18 SECRETARY WADDELL: Moulton-Patterson?

19 CHAIRPERSON MOULTON-PATTERSON: Aye.

20 Okay. Motion carries.

21 And before we go -- we're going to be having a
22 closed session at 1:30. But we do have one public
23 comment. Mr. Rick Lymp of Right 2 Know.

24 And I'd like to ask Mr. Lymp to be very concise.

25 Coming down?

1 Thank you.

2 And then, Mr. Lee, I think you have a final
3 comment that you wanted to make.

4 MR. LYMP: Good morning. My name is Rick Lymp.
5 I'm with Right 2 Know. Madam Chairman, thanks for the
6 courtesy allowing me to speak.

7 I've got a letter. I'm not going to read it into
8 the record. I'm going to leave it. But I did want to
9 comment that I've given up. This has to do with the
10 February 2001 Notice of RCRA violations. I've tried
11 everything I can think of to resolve these issues in a
12 non-litigious manner. And so I'm moving forward in hiring
13 a counsel -- additional counsel to handle this matter in
14 federal court.

15 And as soon as a contract is signed, I'll be
16 filing a complaint.

17 So thank you.

18 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.
19 Lymp.

20 Mr. Lee.

21 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

22 Just a brief moment just to announce again our
23 upcoming tire conference that will be held this year here
24 on September 2nd through 4th here in Sacramento. And,
25 again, several Board members have graciously agreed to

1 participate, Board Members Medina, Paparian, and Jones, in
2 various capacities of the conference. And we thank them
3 for their support and participation. And invite all of
4 the Board members again to attend if they can find room on
5 their schedule.

6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you for
8 reminding us. And I'm sure you'll have good attendance.

9 We'll all be back at 1:30 for closed session.

10 Thank you.

11 Meeting is -- well, it's not adjourned now.

12 (Thereupon the California Integrated Waste

13 Management Board meeting adjourned

14 at 11:45 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing California Integrated Waste Management Board
7 meeting was reported in shorthand by me, James F. Peters,
8 a Certified Shorthand Reporter of the State of California,
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said meeting nor in any
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 18th day of August, 2003.

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23 JAMES F. PETERS, CSR, RPR

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